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WHO: Sponsored by the Office of the Federal Register.

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1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, October 20, 2009
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Federal Register
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Thursday, September 24, 2009

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30685 Amdt. No 3338]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 24, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 24, 2009.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the Federal Register expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on September 4, 2009.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

** * * Effective 22 OCT 2009*

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[FR Doc. E9–22059 Filed 9–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

14 CFR Part 97

[Docket No. 30686; Amdt. No. 3339]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 24, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 24, 2009.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit *http://nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1.FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2.The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Harry J. Hodges, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a

''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on September 4, 2009.

John M. Allen,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
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22–Oct–09 ...	OK	MC ALESTER	MC ALESTER RGNL	9/5892	8/24/2009	VOR/DME RWY 20, AMDT 20C.
22–Oct–09 ...	OK	MC ALESTER	MC ALESTER RGNL	9/5904	8/24/2009	LOC RWY 2, AMDT 4A.
22–Oct–09 ...	CO	HOLYOKE	HOLYOKE	9/6789	8/24/2009	RNAV (GPS) RWY 14, ORIG–A.
22–Oct–09 ...	WA	BELLINGHAM	BELLINGHAM INTL	9/6999	8/24/2009	RNAV (GPS) RWY 34, ORIG–A.
22–Oct–09 ...	AZ	FORT HUACHUCA/SIERRA VISTA.	SIERRA VISTA MUNI-LIBBY AAF.	9/7966	9/2/2009	RADAR–1, AMDT 4.
22–Oct–09 ...	AZ	FORT HUACHUCA/SIERRA VISTA.	SIERRA VISTA MUNI-LIBBY AAF.	9/7967	9/2/2009	RNAV (GPS) RWY 8, ORIG.

[FR Doc. E9–22072 Filed 9–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 40, 41, and 45

[Docket No. TTB–2009–0002; T.D. TTB–81; Re: Notice No. 99, T.D. TTB–78, Notice No. 95]

RIN 1513–AB75

Extension of Package Use-Up Rule for Roll-Your-Own Tobacco and Pipe Tobacco (2009R–368P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Temporary rule; Treasury decision.

SUMMARY: On June 22, 2009, the Alcohol and Tobacco Tax and Trade Bureau published T.D. TTB–78, which included amendments to the notice requirements applicable to packages of roll-your-own tobacco and pipe tobacco. The temporary regulations provided a use-up period, until August 1, 2009, for manufacturers and importers to continue to remove packages that did not meet the new notice requirements. Those temporary regulations also included a new rule governing when a product in a package bearing the declaration ''pipe tobacco'' would be classified as roll-your-own tobacco for tax purposes. This temporary rule extends the use-up period and delays application of the new classification rule. It also corrects two minor errors in the previously published regulatory texts. We also are soliciting comments from all interested parties on these new amendments through a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

DATES: *Effective Date:* This temporary rule is effective *September 24, 2009* through June 22, 2012.

FOR FURTHER INFORMATION CONTACT: Amy R. Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202–453–2265).

SUPPLEMENTARY INFORMATION:

Background

On June 22, 2009, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published a temporary rule in the **Federal Register** (T.D. TTB–78, 74 FR 29401) to implement certain changes made to the Internal Revenue Code of 1986 by the Children's Health Insurance Program Reauthorization Act of 2009 (Pub. L. 111–3; 123 Stat. 8) (the Act). The regulatory changes made by the temporary rule went into effect on June 22, 2009. In the same issue of the **Federal Register**, TTB published a notice of proposed rulemaking (Notice No. 95, 74 FR 29433) inviting comments on the temporary regulations.

The temporary rule included new requirements regarding the packaging and labeling of pipe tobacco and roll-your-own tobacco to distinguish between these two products for tax purposes and to reflect the expansion of the statutory definition of roll-your-own tobacco generally to include cigar wrapper and filler. Specifically, the amendments adopted in the temporary rule resulted in the following regulatory standards:

- A package of processed tobacco that bears the notice required for pipe tobacco is deemed to be roll-your-own tobacco if the package does not bear the words ''pipe tobacco'' in direct conjunction with, parallel to, and in substantially the same conspicuousness of type and background as the brand name each time the brand name appears on the package, or if the package or accompanying materials bear any representation that would suggest a use other than as pipe tobacco. (*See* 27 CFR 40.25a(b) and 41.30(b)).
- Only the words ''pipe tobacco'' are acceptable as a designation on a package of pipe tobacco. The words ''Tax Class L'' are no longer authorized as an alternative designation. (*See* 27 CFR 40.216a(a), 41.72a(a), and 45.45a(a)). However, a manufacturer or importer

may, until August 1, 2009, continue to remove packages of pipe tobacco that bear the designation ''Tax Class L'', if such packages were in use prior to April 1, 2009. (*See* 27 CFR 40.216c(a), 41.72c(a), and 45.45c(a)).

• Only the words ''roll-your-own tobacco'', ''cigarette tobacco'', ''cigar tobacco'', ''cigarette wrapper'', and ''cigar wrapper'' are acceptable as designations on a package of roll-your-own tobacco. The words ''Tax Class J'' are no longer authorized as an alternative designation. (*See* 27 CFR 40.216b(a), 41.72b(a), and 45.45b(a)). However, a manufacturer or importer may, until August 1, 2009, continue to remove packages of roll-your-own tobacco that bear the designation ''Tax Class J'', if such packages were in use prior to April 1, 2009. (*See* 27 CFR 40.216c(a), 41.72c(a), and 45.45c(a)). In addition, a manufacturer or importer may, until August 1, 2009, remove roll-your-own tobacco for which the appropriate designation is ''cigar tobacco,'' ''cigarette wrapper,'' or ''cigar wrapper'' even if the packages of such products do not meet the requirements of §§ 40.216b, 41.72b, or 45.45b. (*See* 27 CFR 40.216c(b), 41.72c(b), and 45.45c(b)).

In the preamble to T.D. TTB–78, we set forth the rationale for these regulatory changes. Among other points, we noted that the tax increases adopted in section 701 of the Act resulted in a significant difference in the rate of tax imposed on pipe tobacco ($2.8311 per pound) and the rate of tax imposed on roll-your-own tobacco ($24.78 per pound); prior to the amendments made by the Act, the two rates were the same. Because of the revenue implications resulting from the tax rate changes, we stated that we are currently evaluating analytical methods and other standards to differentiate between the two products for tax purposes, as the current regulations contain no such standard beyond a repeat of the statutory definitions. We also noted that the definitions of these products require consideration of the packaging and labeling of the product in order to determine its classification. Under 26 U.S.C. 5702(n), the term ''pipe tobacco'' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe. Under 26 U.S.C. 5702(o), as amended by section 702 of the Act, the term ''roll-your-own tobacco'' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes or cigars, or for use as wrappers thereof. Accordingly, due to the incentive for industry members to present roll-your-own tobacco as pipe tobacco in the marketplace (and thus pay the lower tax rate), and due to the inclusion of packaging and labeling as a determining factor in the definitions (and thus classifications) of these products, the packaging and labeling of the products must clearly distinguish one product from the other. The circumstances in which a product is deemed to be roll-your-own tobacco rather than pipe tobacco in the amended texts are intended to ensure that the tax collected on the product is consistent with the way the product is presented to the consumer.

The inclusion of the terms ''cigar wrapper,'' ''cigarette wrapper,'' and ''cigar filler'' as terms that would be acceptable designations on packages of roll-your-own merely reflects the statutory change to the definition of roll-your-own tobacco. As with the removal of the words ''Tax Class J'' and ''Tax Class L'', the inclusion of these new terms is intended to ensure both that the product clearly conveys the appropriate classification of the product for tax purposes and that the manufacturer and importer can use as a designation a term more specific to the type of product being offered.

The use-up provisions were intended to allow industry members time to comply with these new requirements while, at the same time, minimizing the jeopardy to the revenue.

Comments Received

In response to Notice No. 95, we have received two comments raising concerns regarding the classification and notice provisions described above, which we believe warrant immediate consideration. The commenters are Kellie L. Newton, who submitted a comment on behalf of the Pipe Tobacco Council, Inc. (''PTC''), and Harold N. Bynum, who submitted a comment on behalf of John Middleton Co. (''JMC''). Both commenters requested that TTB extend use-up periods for the notice and classification-related requirements that apply to pipe tobacco products, asserting that the use-up period in the temporary regulations (that is, to August 1, 2009) gave insufficient time for manufacturers and importers of pipe tobacco to comply with the new requirements.

In its comment, PTC requested that TTB extend the period during which packaging not in compliance with the new regulatory provisions could be used to ''at least May 1, 2010.'' PTC asserted that the existing use-up period would cause ''substantial irreparable economic harm to the manufacturers and importers of pipe tobacco.'' PTC stated that the 40 days provided ''is not sufficient time for the manufacturers and importers of pipe tobacco to fully comprehend the required packaging and labeling changes, to assess current inventory, and to design, order and receive new packaging or stickers that comply with the required changes.'' PTC stated: (1) It often takes five to six months for companies to introduce new packaging; (2) the existing use-up period could cost the industry as much as $2,400,000 to obtain and put into use new packaging; (3) extending the use-up to May 1, 2010, would still cause the industry to incur as much as $1,400,000 in design, packaging, delivery, and labor costs; and (4) additional financial losses would include the loss of existing inventories of packaging that could not be brought into compliance with the new provisions. PTC estimated significant losses to the U.S. economy if manufacturers must stop removing product because of issues arising from the packaging and labeling requirements. The commenter noted that, in the past, TTB has provided for longer use-up periods when it has required the industry to change labels and packages of tobacco products. For example, on June 29, 2000, TTB's predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF) published in the **Federal Register** an extension of a compliance date for the marking of roll-your-own tobacco, thereby adding six months to an original four month use-up period.

In its comment, JMC asserted that the classification and notice requirements are ''unnecessarily burdensome.'' JMC asked that TTB extend the use-up provision related to the notice requirement on pipe tobacco packaging to allow use of existing packaging materials until final rules are adopted. With regard to the classification issue, JMC pointed out that the provisions set forth in §§ 40.25a and 41.30, in which the packaging bears on the classification of the products in question, were not subject to a use-up period in the temporary regulations, and JMC asked that TTB make a use-up provision equally applicable to both the classification and notice-related packaging provisions.

According to JMC, very little of the pipe tobacco packaging on the market on June 22, 2009, met both the new notice and classification-related marking requirements, and there was no indication in the Act that such requirements would be forthcoming. JMC estimated that it will take

approximately three months or more for JMC to develop, print, and move into use new packaging materials, at a cost in excess of $150,000.00, and JMC further stated that the company will have in excess of one million pieces of packaging materials on hand that will be wasted if the use-up period is not extended. JMC further noted that, for JMC's last packaging change with TTB implications, TTB allowed a one-year use up of its previous packaging. JMC believes the extension of a use-up period until the temporary regulations are finalized through publication of a final rule is need because of the ''fluid nature of rule making'' under which, based on comments received, TTB may make changes to the requirements that would result in yet another packaging change.

In addition to concerns about the length of the use-up period, JMC asserted that it is unreasonable for the new regulations to apply the use-up period only to packages that were in use on April 1, 2009, because manufacturers may have begun using new packaging materials after April 1, 2009, but prior to June 22, 2009, unaware of the impending changes required by the temporary rule. According to JMC, it would be legitimate to restrict the use-up provision to products that were marketed as pipe tobacco prior to the passage of the Act.

JMC further asserted that the extension of the use-up provision ''can be done in such a way that the revenue from roll-your-own tobacco products will not be threatened,'' by applying the extension only to products that were marketed as pipe tobacco prior to the passage of the Act. JMC noted that the new regulations also provide that a product will be deemed to be roll-your-own tobacco even if it bears a ''pipe tobacco'' notice if the package or accompanying materials bear any representation that would suggest a use other than as pipe tobacco. JMC believes that this provision, in combination with the application of the extension only to products that were sold as pipe tobacco prior to the passage of the Act, would be adequate to protect the revenue ''without placing an unreasonable burden on established manufacturers of pipe tobacco.''

We note that the submission by JMC also questioned the new package labeling requirements as ''not authorized or required by the CHIPRA legislation.'' We are not addressing this issue at this time. We will address this issue along with other comments received in response to Notice No. 95.

TTB Analysis and Finding

We have carefully considered the above comments, including the statements regarding the costs that would be incurred by manufacturers and importers without an extension of the use-up period, and the potential for jeopardy to the revenue involved in extending the compliance deadline under the second use-up rule. We have also received and considered requests from persons who are engaged in business as manufacturers or importers of cigar wrappers and who, by virtue of the change to the definition of roll-your-own tobacco made by section 702 of the Act, only recently came into the TTB statutory and regulatory regime. These industry members have asked TTB to provide an extended use-up period applicable to the notice requirements for their products.

Based on the information before us, we believe that a persuasive case has been made for an extension of the periods specified for the use-up rules and for delaying application of the new classification rule. Accordingly, in this document we are amending §§ 40.25a and 41.30 to provide that during the period from June 22, 2009, through March 23, 2010, manufacturers and importers may continue to remove products as pipe tobacco even though the packages do not bear the declaration ''pipe tobacco'' with the brand name in the manner prescribed in paragraph (b)(3)(i) of each of those sections. We are also revising the use-up rules in §§ 40.216c, 41.72c, and 45.45c to provide that during the period from June 22, 2009, through March 23, 2010, a manufacturer or importer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the applicable notice requirements, provided that such packages bear the designation ''Tax Class L'' (to designate pipe tobacco) or ''Tax Class J'' (to designate roll-your-own tobacco) and were in use prior to June 22, 2009. These revised use-up provisions also provide that, during the same period, a manufacturer or importer may remove roll-your-own tobacco for which the applicable designation is ''cigar tobacco,'' ''cigarette wrapper,'' or ''cigar wrapper'' even if the packages of such products do not meet the requirements of §§ 40.216b, 41.72b, or 45.45b. Thus, these amendments provide an extension of the use-up period for current packaging that is equally applicable to both the classification and the notice-related packaging provisions. In addition, these amendments provide additional time for manufacturers and importers to bring packaging into compliance with the new packaging requirements.

As the amendments in this document reflect, we do not believe it is appropriate to extend the date by which packages must be brought into compliance until May 2010 (as was proposed by PTC) or until a final rule is published (as was proposed by JMC). We believe that the extended use-up periods suggested by these commenters are too long to be consistent with good regulatory practice. In addition, we do not believe that the circumstances here are sufficiently similar to those of prior, longer, use-up periods that the commenters described in their submissions.

As was noted in T.D. TTB–78, in the present circumstance the classification of the products has significant revenue implications. The extent to which the packaging clearly conveys the use for which the product is offered will directly affect the assessment of whether a product is, because of its packaging or labeling, ''likely to be offered to, or purchased by, consumers'' as a pipe tobacco or a roll-your-own tobacco. The incentive for industry members to manipulate the packaging and labeling of such products, particularly during the period in which TTB is evaluating but has not published definitive analytical methods or other standards for distinguishing between the two products, is significant. Earlier examples of use-up periods provided by TTB or ATF did not have similar revenue consequences. For example, the extension of the use-up period for roll-your-own tobacco product packages published by ATF in the **Federal Register** on June 29, 2000, took place when the tax rates imposed on pipe tobacco and on roll-your-own tobacco were equivalent ($0.9567 per pound). We believe that the extended use-up period provided in the present temporary rule recognizes both the financial concerns of industry members and the revenue requirements of the Act (and the implementation and enforcement realities that accompany them).

With regard to the comment by JMC concerning the unreasonableness of the requirement that packages must have been in use prior to April 1, 2009, to qualify for continued removal until the end of the use-up period, we note that the use of the June 22, 2009, date in the amended regulatory texts contained in this document address that concern. This change conforms the start of the new use-up period to the date of the publication of T.D. TTB–78 (that is, June 22, 2009). It also obviates the need to address the suggestion of JMC to apply

the use-up provision only to products that were marketed as pipe tobacco prior to the passage of the Act.

Finally, we note that the temporary regulations adopted in T.D. TTB–78 contained two minor errors of omission, which this document corrects. Specifically, we are amending 27 CFR 41.81(c)(6) and (7) to bring those provisions, which concern information on pipe tobacco and roll-your-own tobacco that importers must include on customs forms or in authorized electronic transmissions, into conformity with the amendments that T.D. TTB–78 made to the notice requirements for such products. In § 41.81(c)(6), we have removed the term ''Tax Class L'' as a designation for pipe tobacco. In § 41.81(c)(7), we have removed the term ''Tax Class J'' as a designation for roll-your-own tobacco and have added the other acceptable designations for roll-your-own tobacco: ''cigarette tobacco'', ''cigarette wrapper'', ''cigar tobacco'', or ''cigar wrapper''.

Temporary Rule

Based on the June 22, 2009, effective date of the package and notice provisions which are the subject of the regulatory changes contained in this document, and based on the need to extend the August 1, 2009, termination date of the use-up provisions and to delay application of the new classification rule as discussed above, TTB believes that it is necessary to adopt these regulatory changes immediately.

Public Participation

To submit comments on this proposal, please refer to the notice of proposed rulemaking, Notice No. 99, published in the ''Proposed Rules'' section of this issue of the **Federal Register**.

You may view copies of all the CHIPRA-related rulemaking documents and any comments we receive about them within Docket No. TTB–2009–0002 at *http://www.regulations.gov.* A direct link to this docket is posted on the TTB Web site at *http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml* under Notice No. 99. You also may view copies of those rulemaking documents and comments by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202–453–2270 to make an appointment.

Regulatory Flexibility Act

We certify that this temporary rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The regulatory obligations and relevant collections of information which are the subject of this temporary rule derive directly from the Internal Revenue Code of 1986, as amended. Likewise, any secondary or incidental effects, and any reporting, recordkeeping, or other compliance burdens flow directly from the statute. Pursuant to 26 U.S.C. 7805(f), this temporary regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Paperwork Reduction Act

TTB has provided estimates of the burden that the collection of information contained in these regulations imposes, and the estimated burden has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned control number 1513–0101.

Under the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Comments concerning suggestions for reducing the burden of the collections of information in this document should be directed to Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044–4412;
- 202–453–2686 (facsimile); or
- *formcomments@ttb.gov* (e-mail).

Executive Order 12866

This is not a significant regulatory action as defined in E.O. 12866. Therefore, it requires no regulatory assessment.

Inapplicability of Prior Notice and Comment and Delayed Effective Date Procedures

Because this document makes necessary changes to regulatory provisions that are already in effect, and because these changes are needed immediately to avoid unintended negative consequences on industry members arising out of the existing regulations, it is found to be impracticable to issue this Treasury decision with notice and public procedure under 5 U.S.C. 553(b).

Pursuant to the provisions of 5 U.S.C. 553(d)(2), and (d)(3), we are issuing these regulatory amendments without a delayed effective date. These amendments affect regulatory provisions that TTB adopted as an interpretative rule implementing Public Law 111–3 as provided for in section 553(d)(2). TTB also has determined that good cause exists to provide industry members with immediate relief from the unintended consequences of the existing regulations, in accordance with section 553(d)(3).

Drafting Information

Amy R. Greenberg of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects

27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 41

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

27 CFR Part 45

Administrative practice and procedure, Authority delegations (Government agencies), Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco.

Amendments to the Regulations

■ For the reasons set forth in the preamble, title 27, chapter I, of the Code of Federal Regulations is amended as follows:

PART 40—MANUFACTURE OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

■ 1. The authority citation for part 40 continues to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 2. In § 40.25a, paragraph (b)(3) is amended by removing the words ''Any tobacco'' and adding, in their place, the words ''Subject to paragraph (b)(4) of this section, any tobacco'', and a new paragraph (b)(4) is added to read as follows:

§ 40.25a Pipe tobacco and roll-your-own tobacco tax rates and classification.

* * * * *

(b) * * *

(4) During the period from June 22, 2009, through March 23, 2010, manufacturers may continue to remove products as pipe tobacco in packages that do not bear the declaration ''pipe tobacco'' in the manner prescribed in paragraph (b)(3)(i) of this section.

■ 3. Section 40.216c is revised to read as follows:

§ 40.216c Package use-up rule.

(a) During the period from June 22, 2009, through March 23, 2010, a manufacturer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the requirements of § 40.216a(a) or § 40.216b(a), provided that such packages bear the designation ''Tax Class L'' (to designate pipe tobacco) or ''Tax Class J'' (to designate roll-your-own tobacco) and were in use prior to June 22, 2009.

(b) During the period from June 22, 2009, through March 23, 2010, a manufacturer may remove roll-your-own tobacco for which the applicable designation is ''cigar tobacco,'' ''cigarette wrapper,'' or ''cigar wrapper'' even if the packages of such products do not meet the requirements of § 40.216b.

PART 41—IMPORTATION OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

■ 4. The authority citation for part 41 continues to read as follows:

Authority: 26 U.S.C. 5701–5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6302, 6313, 6402, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 5. In § 41.30, paragraph (b)(3) is amended by removing the words ''Any tobacco'' and adding, in their place, the words ''Subject to paragraph (b)(4) of this section, any tobacco'', and a new paragraph (b)(4) is added to read as follows:

§ 41.30 Pipe tobacco and roll-your-own tobacco.

* * * * *

(b) * * *

(4) During the period from June 22, 2009, through March 23, 2010, importers may continue to remove products as pipe tobacco in packages that do not bear the declaration ''pipe tobacco'' in the manner prescribed in paragraph (b)(3)(i) of this section.

■ 6. Section 41.72c is revised to read as follows:

§ 41.72c Package use-up rule.

(a) During the period from June 22, 2009, through March 23, 2010, an importer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the requirements of § 41.72a(a) or § 41.72b(a), provided that such packages bear the designation ''Tax Class L'' (to designate pipe tobacco) or ''Tax Class J'' (to designate roll-your-own tobacco) and were in use prior to June 22, 2009.

(b) During the period from June 22, 2009, through March 23, 2010, an importer may remove roll-your-own tobacco for which the applicable designation is ''cigar tobacco,'' ''cigarette wrapper,'' or ''cigar wrapper'' even if the packages of such products do not meet the requirements of § 41.72b.

■ 7. In § 41.81, paragraphs (c)(6) and (c)(7) are revised to read as follows:

§ 41.81 Taxpayment.

* * * * *

(c) * * *

(6) *For pipe tobacco:* The importer will show the designation ''pipe tobacco'', the number of pounds and ounces, the rate of tax, and the tax due.

(7) *For roll-your-own tobacco:* The importer will show the designation ''roll-your-own tobacco'' or any other acceptable designation (''cigarette tobacco'', ''cigarette wrapper'', ''cigar tobacco'', or ''cigar wrapper''), the number of pounds and ounces, the rate of tax, and the tax due.

* * * * *

PART 45—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

■ 8. The authority citation for part 45 continues to read as follows:

Authority: 26 U.S.C. 5702–5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805; 44 U.S.C. 3504(h).

■ 9. Section 45.45c is revised to read as follows:

§ 45.45c Package use-up rule.

(a) During the period from June 22, 2009, through March 23, 2010, a manufacturer of tobacco products may remove packages of pipe tobacco or roll-your-own tobacco that do not meet the requirements of § 45.45a(a) or § 45.45b(a), provided that such packages bear the designation ''Tax Class L'' (to designate pipe tobacco) or ''Tax Class J'' (to designate roll-your-own tobacco)) and were in use prior to June 22, 2009.

(b) During the period from June 22, 2009, through March 23, 2010, a manufacturer may remove roll-your-own tobacco for which the applicable designation is ''cigar tobacco,'' ''cigarette wrapper,'' or ''cigar wrapper'' even if the packages of such products do not meet the requirements of § 45.45b.

Signed: August 23, 2009.

John J. Manfreda,

Administrator.

Approved: September 4, 2009.

Timothy E. Skud,

Deputy Assistant Secretary, Tax, Trade, and Tariff Policy.

[FR Doc. E9–23180 Filed 9–23–09; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–0755]

RIN 1625–AA00

Safety Zone: Robert Moses Causeway Bridge State Boat Channel, Captree, NY

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the waters of the State Boat Channel surrounding the Robert Moses Causeway located in Captree, New York due to ongoing construction. This rule is necessary to protect vessels transiting the area from hazards imposed by construction barges and equipment; entry into this zone is prohibited unless authorized by the Captain of the Port Long Island Sound, New Haven, CT.

DATES: This interim rule is effective from September 24, 2009 until May 28th, 2010. The safety zone has been enforced with actual notice since September 8, 2009. Comments and related material must reach the Coast Guard on or before November 9, 2009. Requests for public meetings must be received by the Coast Guard on or before October 1, 2009.

ADDRESSES: You may submit comments identified by docket number USCG–2009–0755 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of

Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or e-mail, Chief Petty Officer Christie Dixon, Waterways Management, Coast Guard Sector Long Island Sound: telephone 203–468–4459, e-mail *Christie.M.Dixon@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0755), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2009–0755'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2009–0755'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before October 1, 2009, using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Chief Petty Officer Christie Dixon, Waterways Management, Coast Guard Sector Long Island Sound at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Regulatory Information

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because insufficient time exists prior to the beginning of construction to allow for a full notice and comment period. Further, any delay encountered in this regulation's effective date would be contrary to the public's interest as immediate action is needed to ensure the safety of vessels transiting in the State Boat Channel in the vicinity of the Robert Moses Causeway Bridge during construction.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. A delay or cancellation of this ongoing construction project is not in the public interest and would further disrupt the flow of vehicular and maritime traffic. In addition, this safety zone is necessary to ensure the continued safety of the maritime public and construction workers throughout the completion of this essential repair project.

Background and Purpose

The New York Department of Transportation has been rehabilitating portions of the Robert Moses Causeway Bridge and recently determined that additional work is needed and will be rehabilitating the northbound section of the Robert Moses Causeway Bridge located over the State Boat Channel in Captree, NY beginning on September 8th, 2009. These repairs are needed to ensure the continued safe operation of the bridge when being raised to accommodate vessel traffic. To complete the repairs on the bridge, construction barges will need to block the waterway throughout the course of the rehabilitation project. To ensure the

continued safety of the boating community and the construction workers during the completion of this project, the Coast Guard is establishing a safety zone on the navigable waters of the State Boat Channel within 100-yards to either side of the Robert Moses Causeway Bridge. This safety zone is necessary to protect boaters from the hazards posed by construction equipment located on the waterway during the rehabilitation work and to protect the construction workers from the dangers caused by vessels and vessel wake near the barges. Vessels may utilize the Great South Bay or Jones Inlet as an alternative route to using the State Boat Channel, allowing vessels to avoid the safety zone and construction while adding minimal additional transit time. Marine traffic may also transit outside of the established safety zone during the effective dates thus allowing navigation to continue in all other areas of the State Boat Channel, except the portion delineated by this rule.

Discussion of Rule

This regulation establishes a temporary safety zone on the State Boat Channel within 100-yards to either side of the Robert Moses Causeway Bridge. This action is intended to prohibit all vessels from entering the designated portion of the State Boat Channel unless prior permission has been received from the Captain of the Port Long Island Sound.

The effective period of this safety zone is from September 8th, 2009 through May 28th, 2010, inclusive. Entry into this zone during the effective period is prohibited unless authorized by the Captain of the Port Long Island Sound. If construction is completed and the barges are removed prior to May 28th, 2010, the safety zone will no longer be enforced and the Coast Guard will advise the public of the cancellation of the safety zone through marine information broadcasts and local notice to mariners.

Any violation of the safety zone described herein is punishable by, among other things, civil and criminal penalties, *in rem* liability against the offending vessel, and the initiation of suspension or revocation proceedings against Coast Guard-issued merchant mariner credentials.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels may transit in all areas of the State Boat Channel other than the area of the safety zone, and may utilize other routes to transit around the safety zone and construction with minimally increased transit time.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit in those portions of the State Boat Channel that are covered by the safety zone. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule establishes a safety zone and therefore falls under the categorical exclusion in paragraph (34)(g). An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0755 to read as follows:

§ 165.T01–0755 Safety Zone: Robert Moses Causeway Bridge State Boat Channel, Captree, New York.

(a) *Location.* The following area is a safety zone: All navigable waters of the Federal channel on the State Boat Channel in Captree, NY, from surface to bottom, within 100 yards to either side of the Robert Moses Causeway Bridge.

(b) *Definitions.* The following definition applies to this section: *Designated on-scene patrol personnel,* means any commissioned, warrant and petty officers of the U.S. Coast Guard operating Coast Guard vessels who have been authorized to act on the behalf of the Captain of the Port Long Island Sound.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Long Island Sound.

(3) All persons and vessels must comply with the Coast Guard Captain of the Port or the designated on-scene patrol personnel.

(4) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel must proceed as directed.

(5) Persons and vessels may request permission to enter the zone on VHF–16 or via phone at (203) 468–4401.

(d) *Effective period.* This rule is effective from September 8th, 2009, through May 28th, 2010, inclusive.

Dated: September 4, 2009.

Kevin C. Burke,

Commander, U.S. Coast Guard, Acting Captain of the Port Long Island Sound.

[FR Doc. E9–22981 Filed 9–23–09; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AN26

Loan Guaranty: Assistance to Eligible Individuals in Acquiring Specially Adapted Housing; Cost-of-Construction Index

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs' (VA's) Loan Guaranty regulations concerning assistance to eligible individuals in acquiring specially adapted housing. This final rule implements provisions of the Housing and Economic Recovery Act of 2008, which authorized VA to provide for automatic annual increases in the dollar amounts available to certain Specially Adapted Housing grant recipients.

DATES: *Effective Date:* October 26, 2009.

FOR FURTHER INFORMATION CONTACT: Katherine Faliski, Assistant Director for Loan Policy and Valuation, Loan Guaranty Service (26), Veterans Benefits

Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9527. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on May 12, 2009 (74 FR 22145), VA proposed to amend the Specially Adapted Housing (SAH) regulations (38 CFR part 36, subpart C) to implement provisions of Public Law 110–289, the Housing and Economic Recovery Act of 2008. Section 2605 of the law directed the Secretary of Veterans Affairs to establish a residential home cost-of-construction index for the purpose of increasing certain SAH grant amounts. It also authorized the Secretary to ''use an index developed in the private sector that the Secretary determines is appropriate for [this purpose].''

The comment period ended June 11, 2009, and VA received only one response, which was from an association representing homebuilders. This commenter indicated its support for the proposed rule with regard to VA's plan to implement ''much needed increases in grant amounts that are provided to severely disabled Veterans'' through the SAH program. However, the commenter disagreed with VA's choice of index.

VA proposed the Turner Building Cost Index (TBCI) for increasing the amounts of SAH grant assistance available. We based the choice mainly on the fact that the TBCI emphasizes the costs of labor and materials, rather than property values or sales prices. Since property values do not necessarily reflect the expense a Veteran or servicemember might have to incur when adapting a home, we believed the TBCI to be the best-suited index for the SAH program.

The commenter pointed out that, in its opinion, the TBCI is not appropriate, because the TBCI measures primarily non-residential building construction costs. Instead, the commenter recommended that VA adopt an index like the U.S. Census Bureau's Price Deflator Index of New One-Family Houses Under Construction (''Fisher Index''). The commenter stated that the Census Bureau's Index is preferable to the TBCI because it tracks new homes under construction as opposed to non-residential buildings. It also pointed out that the Fisher Index is developed by a Government organization whose methodology is readily available.

Due to the commenter's position, VA further researched the methodologies used to develop the various indices. VA discussed with representatives from Turner and the U.S. Census Bureau the strengths and weaknesses of applying each of their respective indices (the TBCI, the Fisher Index, and the Laspeyres Price Index) to the SAH program and determined that, at this time, the TBCI is the most appropriate for calculating the annual SAH increases. VA concurs with the commenter's preference for a cost index that is maintained by a Government organization. However, VA points out that the indices produced by the U.S. Census Bureau are primarily value-driven, as they are derived by subtracting the cost of land and ''other costs not related to construction'' from the value of the home.

VA believes that, for the purposes of the SAH program, an index based on actual cost of materials and labor is more suitable than one based on the value of homes. The SAH authorizing statutes expressly require payment of SAH assistance based on ''costs'' to the individual. Section 2605 of the Housing and Economic Recovery Act of 2008 also refers expressly to costs, not value. Additionally, VA has determined that, at least for the first year of implementation, the TBCI will afford Veterans more purchasing power when constructing or adapting a home than the Fisher or Laspeyres indices.

Admittedly, the TBCI is not perfectly tailored for the SAH program. The commenter is correct in that the TBCI is mainly driven by commercial construction costs and that the statute refers to a residential index.

VA has determined, however, that although the TBCI may not be intended for estimating residential construction costs in general, it is a reliable indicator for the types of residential costs unique to the SAH program. For instance, many Veterans need SAH assistance to reinforce their homes with steel piers, purchase wheelchair lifts, and pay engineering fees—all types of expenses not generally associated with residential construction, yet very relevant to Veterans who participate in the SAH program. Furthermore, VA analyzed data from the last forty years and saw that, had SAH assistance been tied to the TBCI during that time, today's grant amount would be about $6,000 higher than had it been tied to the Fisher or Laspeyres. Given that the TBCI is cost-based; the types of adaptations in the SAH program are not ''typical'' residential costs; the difference in the indices over four decades is relatively small; and the advantages of the TBCI weigh in a Veteran's favor, we have decided to adopt the TBCI as the cost-of-construction index for determining fiscal year 2010 grant amounts.

For the above reasons, we will not make any changes to the proposed rule based upon the comment we received. However, we will monitor the cost indices available in the marketplace and propose changes to VA's Loan Guaranty regulations if we determine that increases in SAH grant amounts should be based upon an alternative cost-of-construction index.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This document contains no provisions constituting collections of information.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB) unless OMB waives such a review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined

not to be a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of the final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*. This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), the rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.106, Specially Adapted Housing for Disabled Veterans; and 64.118, Veterans Housing—Direct Loans for Certain Disabled Veterans.

Lists of Subjects in 38 CFR Part 36

Condominiums, Housing, Indians, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Indians, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: September 15, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

■ For the reasons set out in the preamble, VA amends 38 CFR part 36 (Subpart C) as set forth below.

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501 and as otherwise noted.

Subpart C—Assistance to Certain Disabled Veterans in Acquiring Specially Adapted Housing

■ 2. Add § 36.4412 to read as follows:

§ 36.4412 Annual adjustments to the aggregate amount of assistance available.

(a) On October 1 of each year, the Secretary will increase the aggregate amounts of assistance available for grants authorized under 38 U.S.C. 2101(a) and 2101(b). Such increase will be equal to the percentage by which the Turner Building Cost Index for the most recent calendar year exceeds that of the next preceding calendar year.

(b) Notwithstanding paragraph (a) of this section, if the Turner Building Cost Index for the most recent full calendar year is equal to or less than the next preceding calendar year, the percentage increase will be zero.

(c) No later than September 30 of each year, the Secretary will publish in the **Federal Register** the aggregate amounts of assistance available for the upcoming fiscal year.

(Authority: 38 U.S.C. 2102(e))

[FR Doc. E9–23022 Filed 9–23–09; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0293; FRL–8961–6]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Lead (Pb) Maintenance Plan Update for Marion County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on April 1, 2009, to revise the Indiana State Implementation Plan (SIP) for lead (Pb). The State has submitted an update to its Pb maintenance plan for Marion County for continued attainment of the 1.5 micrograms per cubic meter ($\mu g/m^3$) National Ambient Air Quality Standard (NAAQS) promulgated in 1978. This update satisfies section 175A of the Clean Air Act (CAA), and is in accordance with EPA's May 10, 2000, approval of the State's Redesignation Request and Maintenance Plan for the Marion County Pb nonattainment areas. Additionally, this Pb maintenance plan satisfies the requirements for maintenance plans contained in the September 4, 1992, EPA memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

DATES: This direct final will be effective November 23, 2009, unless EPA receives adverse comments by October 26, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0293, by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail: mooney.john@epa.gov*.

3. *Fax:* (312) 692–2551.

4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0293. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other

material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886–0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0258, *chang.andy@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background

A. Why did the State make this submittal?

On November 6, 1991, EPA designated a portion of Franklin Township in Marion County as a primary nonattainment area for Pb under section 107 of the CAA (56 FR 56694). On the same date, EPA designated a portion of Wayne Township in Marion County as an unclassifiable area for Pb.

On March 2, 2000, IDEM submitted a Redesignation Request and Maintenance Plan for the Marion County nonattainment areas. IDEM's submittal included ambient monitoring data showing that the areas met the 1978 Pb NAAQS for the prior three years, air quality improvements that could be attributed to reductions in Pb emissions which are permanent and enforceable, and a maintenance plan that assured continued attainment of the standard. As a result, on May 10, 2000 (65 FR 114223), EPA approved the request.

The State's updated maintenance plan satisfies the requirements of section 175A(b) of the CAA, which mandates that the State shall submit an additional revision to the maintenance plan eight years after redesignation of any area as an attainment area. It is also consistent with the requirements for maintenance plan elements outlined in a September 4, 1992, memorandum from the Director of EPA's Air Quality Management Division, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment.'' The State submitted the updated maintenance plan to EPA on April 1, 2009, and supplemented its submittal with two technical addenda on June 5, 2009, and July 6, 2009.

B. Did the State hold public hearings for the maintenance plan update?

Public notice was given on February 20, 2009, in the *Indianapolis Star News.*

II. What criteria is EPA using to evaluate this submittal?

In addition to the general requirements in section 175A of the CAA, guidance for maintenance plans and maintenance plan updates are provided in the September 4, 1992, memorandum, which states that the following five components need to be addressed: Attainment Inventory, Maintenance Demonstration, Monitoring Network, Verification of Continued Attainment, and Contingency Plan.

III. What is EPA's analysis of this submittal?

A. Requirements of Section 175A of the CAA

Section 175A contains four subsections pertaining to maintenance plans. Section 175A(a) establishes requirements for initial SIP redesignation request maintenance plans, as addressed in EPA's May 10, 2000 approval of the Indiana plan. Section 175A(b) requires states to submit an update to the maintenance plan eight years following the original redesignation to attainment, and IDEM has satisfied the requirements of this element with its current submittal. It also requires that within this update, the State must outline methods for maintaining the pertinent NAAQS for ten years after the expiration of the ten-year period referred to in subsection (a), *i.e.,* Indiana's maintenance plan update must outline methods for maintaining the 1.5 μg/m^3 Pb NAAQS through 2020. In a June 5, 2009, technical addendum, Indiana provided Pb emissions projections that satisfy this requirement. Section 175A(c) does not apply to this rulemaking, given that EPA has previously redesignated Marion County to attainment for Pb. The contingency provisions requirements outlined in section 175A(d) will be addressed in detail in Section B5, below.

B. Consistency With the September 4, 1992, Memorandum

As discussed above, EPA's interpretation of section 175A of the CAA is contained in the September 4, 1992, memorandum. Indiana has addressed the five major elements of that policy, as follows:

1. Emissions Inventory

The State is required to develop an attainment emissions inventory to identify a level of emissions in the area which is protective of the 1.5 μg/m^3 Pb NAAQS. In its submittal, IDEM provided a comprehensive emissions inventory of major and minor permitted sources in Marion County for the base year and attainment year (1996) compared to the most recent emissions inventory (2007). The State demonstrated that annual Pb emissions in Marion County from permitted sources have decreased by over 1.78 tons (61.58%) from 1996 to 2007. This decrease can be attributed to a number of factors, including Federally mandated programs, the closings of permitted stationary sources, and source-specific operating provisions. Additionally, the State demonstrated that the actual 2007 emissions were 2.032 tons less than the projected 2010 emissions. The State has satisfied the attainment inventory requirement for maintenance plan updates.

2. Maintenance Demonstration

The State may generally demonstrate maintenance of the 1.5 μg/m^3 Pb NAAQS by either showing that future Pb emissions will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the Pb NAAQS. The demonstration should be for a period of ten years following the redesignation, i.e., until 2020 for the maintenance plan update.

In its submittal, IDEM showed, using ambient monitoring data collected between 1999 and 2008, that the County is meeting the 1.5 μg/m^3 Pb NAAQS, which is based on a quarterly average. The highest quarterly average in this

time period was less than 0.20 μg/m^3, which equates to 13% of the 1.5 μg/m^3 Pb NAAQS. Pb emissions are expected to decrease from 2.897 tons per year in 1996 to 0.63 tons per year in 2020. As 1996 was the base year for attainment with an emissions inventory of 2.897 tons, any projected emissions below that level will also lead to attainment. Therefore, the State has satisfied the maintenance demonstration requirement for maintenance plan updates.

3. Monitoring Network

Once an area has been redesignated, the State should continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR Part 58, to verify the attainment status of the area. In its submittal, IDEM specifically identifies two monitoring sites located in Marion County, which are Air Quality Systems (AQS) I.D. 18–097–0063 (7601 Rockville Road) and AQS I.D. 18–097–0076 (230 South Girls School Road). The monitors have been in operation since January 1, 1984, and May 6, 1991, respectively. IDEM commits to continue monitoring Pb in these areas to ensure that Pb concentrations remain well below the 1.5 μg/m^3 Pb NAAQS. Furthermore, IDEM commits to consult with EPA should changes to the existing monitoring network be needed. The State has satisfied the monitoring network requirements for the maintenance plan update.

4. Verification of Continued Attainment

The State should ensure that it has the legal authority to implement and enforce all measures necessary to attain and to maintain the NAAQS. One such measure for maintaining the NAAQS is the acquisition of ambient and source emission data to demonstrate attainment and maintenance.

IDEM has included quality-assured data in its submittal in accordance with 40 CFR 58.10 (Supbart B—Monitoring Network) and the Indiana Quality Assurance Manual. The data were found to be valid, and was recorded in the AQS database, which is available to the public. IDEM commits to continue its quality assurance and validation processes in accordance with 40 CFR Part 58 and the Indiana Quality Assurance Manual. Furthermore, the State commits to enter all data in the AQS database in a timely basis in accordance with Federal guidelines. The State has satisfied the verification of continued attainment requirements for maintenance plan updates.

5. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of an area. The September 4, 1992, memorandum further requires that the contingency provisions identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State.

In its April 1, 2009, submittal, Indiana commits to the same contingency measures that EPA previously approved on May 10, 2000 (65 FR 11423). In a July 6, 2009, technical memorandum, the State added one new trigger and associated timeline for contingency measures: if the State determines that Pb levels and emissions are increasing and action is necessary to reverse that trend, IDEM will implement any necessary contingency measures within 18 months of the monitoring data being submitted to EPA's AQS database. The State has satisfied the contingency plan requirements pursuant to section 175A(d) of the CAA as well as those of the September 4, 1992, memorandum.

IV. What action is EPA taking?

We are approving this update to the Pb maintenance plan for Marion County. The State of Indiana has complied with requirements of section 175A of the CAA, as interpreted by the guidance provided in the September 4, 1992, memorandum. Indiana has shown through its submittal that Pb emissions in Marion County have remained well under the level of the 1.5 μg/m^3 NAAQS, and that they are expected to remain so until at least 2020.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective November 23, 2009 without further notice unless we receive relevant adverse written comments by October 23, 2009. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective November 23, 2009.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is

not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 23, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register,** rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: September 14, 2009.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart P—Indiana

■ 2. Section 52.797 is amended by adding paragraph (e) to read as follows:

§ 52.797 Control strategy: Lead.

* * * * *

(e) On April 1, 2009, Indiana submitted an updated maintenance plan under section 175A of the CAA for Marion County for the continued attainment of the 1.5 $\mu g/m^3$ lead standard.

[FR Doc. E9–22922 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0512; FRL–8961–9]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Interim Final Determination That Lake and Porter Counties Are Exempt From NO_X RACT Requirements for Purposes of Staying Sanctions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: In the Proposed Rules section of this **Federal Register**, EPA is proposing approval of Indiana's request to exempt Lake and Porter Counties from the Nitrogen Oxides (NO_X) Reasonably Available Control Technology (RACT) requirement under section 182(f) of the Clean Air Act (CAA) for the 1997 eight-hour ozone standard based on a proposed determination that the area has attained that standard. Based on the proposed approval, EPA is making an interim final determination by this action that, with respect to the NO_X RACT requirement, the State, contingent upon continued monitored attainment of the 1997 eight-hour ozone National Ambient Air Quality Standard (NAAQS), has corrected the deficiency which was the basis for a sanctions clock. This action will defer the application of the new source offset sanction, which would be imposed on September 24, 2009, and defer the application of the highway funding sanction, which would otherwise apply six months after imposition of the offset sanction. Although this action is effective upon publication, EPA will take comment on this interim final determination as well as on EPA's proposed determination of attainment and proposed approval of the State's requested NO_X RACT waiver. EPA will publish a new final action addressing sanctions at the time it takes further action regarding the proposed determination of attainment and proposed approval of the NO_X waiver, taking into consideration any comments on EPA's proposed action and this interim final action.

DATES: This interim final determination is effective on September 24, 2009. However, comments will be accepted until October 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0512, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov*.
- *Fax:* (312) 692–2551.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th Floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0512. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment

that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects and viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty at (312) 886–6057 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background

On March 17, 2008, EPA sent a letter to Thomas W. Easterly, Commissioner, Indiana Department of Environmental Management (IDEM) stating that, under section 179 of the CAA, EPA had determined that Indiana failed to submit a State Implementation Plan (SIP) revision for NO_X RACT in Lake and Porter Counties. EPA formalized this finding by taking final action in the **Federal Register** on March 24, 2008 (73 FR 15416), and that action started the sanctions process outlined in section 179 of the CAA and 40 CFR 50.31. The two-to-one (2:1) new source offset sanction was set to take effect on September 24, 2009, in Lake and Porter Counties as the result of the March 24, 2008, finding of failure to submit.

On June 5, 2009, IDEM submitted an ozone redesignation request for Lake and Porter Counties, which included a petition pursuant to section 182(f) of the CAA to exempt Lake and Porter Counties from the NO_X RACT requirement. The petition is based on ambient air monitoring data for 2006–2008 which shows that the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) ozone nonattainment area is meeting the 1997 eight-hour ozone NAAQS. In the Proposed Rules section of today's **Federal Register,** EPA has proposed a determination that the area has attained the 1997 eight-hour ozone NAAQS and has proposed approval of the NO_X RACT waiver request contingent on continued monitored attainment of the 1997 eight-hour ozone NAAQS in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area and at the Chiwaukee Prairie monitoring site in Kenosha County, Wisconsin (a peak ozone downwind impact site for emissions originating in the Chicago-Gary-Lake County, IL-IN area).

II. EPA Action

Based on the proposed approval of the NO_X RACT waiver request set forth in today's **Federal Register**, EPA believes that it is more likely than not that Indiana (and Lake and Porter Counties) has met the NO_X RACT requirement under section 182(f) of the CAA. Therefore, EPA is making this interim final determination finding that the State, contingent on continued monitored attainment of the ozone NAAQS, has corrected the deficiency of failing to submit NO_X RACT rules.

Because EPA has preliminarily determined that the State has corrected the deficiency identified in EPA's promulgated finding of failure to submit required NO_X RACT rules for Lake and Porter Counties, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse this action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's NO_X RACT waiver petition, and, through its proposed action, is indicating that it is more likely than not that the State has corrected the SIP deficiency that started the sanctions clock for Lake and Porter Counties. It is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to defer the imposition of sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Furthermore, because this rule relieves a restriction, EPA is providing that it will be effective upon publication. (5 U.S.C. 553(d)(1).)

III. Statutory and Executive Order Reviews

This action stays and defers Federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, therefore, is not subject to review by the Office of Management and Budget.

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action.

The administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

This action does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons thereof, and established an effective date of September 24, 2009. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register.** This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 23, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 16, 2009.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E9–23044 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2057; MB Docket No. 09–142; RM–11552]

Television Broadcasting Services; Boston, MA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by WHDH–TV, the licensee of station WHDH–TV, channel 7, Boston, Massachusetts, requesting the substitution of its pre-transition DTV channel 42 for its post-transition DTV channel 7 at Boston.

DATES: This rule is effective September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 09–142, adopted September 15, 2009, and released September 16, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Massachusetts is amended by adding channel 42 and removing channel 7 at Boston.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–23061 Filed 9–23–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–2058; MB Docket No. 08–110; RM–11453]

Television Broadcasting Services; Flagstaff, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Multimedia Holdings Corporation (''MHC''), the permittee of station

KNAZ–TV, channel 2, Flagstaff, Arizona. MHC is currently operating on its allotted pre-transition DTV channel 22 pursuant to Special Temporary Authority and requests the substitution of channel 22 for channel 2 at Flagstaff.

DATES: This rule is effective September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Joyce L. Bernstein, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 08–110, adopted September 15, 2009, and released September 16, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Arizona, is amended by adding channel 22 and removing channel 2 at Flagstaff.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. E9–23062 Filed 9–23–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0810141351–9087–02]

RIN 0648–XR78

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch for Vessels in the Bering Sea and Aleutian Islands Trawl Limited Access Fishery in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch for vessels participating in the Bering Sea and Aleutian Islands (BSAI) trawl limited access fishery in the Western Aleutian District of the BSAI. This action is necessary to prevent exceeding the 2009 Pacific ocean perch total allowable catch (TAC) specified for vessels participating in the BSAI trawl limited access fishery in the Western Aleutian District of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 21, 2009, through 2400 hrs, A.l.t., December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2009 Pacific ocean perch TAC allocated as a directed fishing allowance to vessels participating in the BSAI trawl limited access fishery in the Western Aleutian District of the BSAI is 116 metric tons as established by the final 2009 and 2010 harvest specifications for groundfish in the BSAI (74 FR 7359, February 17, 2009).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2009 Pacific ocean perch TAC allocated to vessels participating in the BSAI trawl limited access fishery in the Western Aleutian District of the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch for vessels participating in the BSAI trawl limited access fishery in the Western Aleutian District of the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch for vessels participating in the BSAI trawl limited access fishery in the Western Aleutian District of the BSAI. Delaying the closure of Pacific ocean perch after the Regional Administrator had determined that the TAC has been reached would be a conservation concern. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 18, 2009.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon

the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2009.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23070 Filed 9–21–09; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 184
Thursday, September 24, 2009

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

RIN 3150–AH29

[NRC–2004–0006]

Risk-Informed Changes to Loss-of-Coolant Accident Technical Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Supplemental proposed rule: Extension of comment period.

SUMMARY: On August 10, 2009, the Nuclear Regulatory Commission (NRC) published for public comment a supplemental proposed rule that would amend the requirements that govern domestic licensing of production and utilization facilities and licenses, certifications, and approvals for nuclear power plants to allow current and certain future power reactor licensees and applicants to choose to implement a risk-informed alternative to the current requirements for analyzing the performance of emergency core cooling systems (ECCS) during loss-of-coolant accidents (LOCA). The proposed amendments would also establish procedures and acceptance criteria for evaluating certain changes in plant design and operation based upon the results of the new analyses of ECCS performance.

The public comment period for this supplemental proposed rule is scheduled to close on September 24, 2009. The NRC has received a request to extend the comment period by 120 days. The NRC is granting this request and is also extending the comment period for the information collection aspects of this supplemental proposed rule by 60 days.

DATES: The comment period for the supplemental proposed rule, published August 10, 2009, (74 FR 40006), is extended by 120 days and now expires on January 22, 2010. The comment period for the information collection aspects of this proposed rulemaking is extended by 60 days and now expires on November 9, 2009. Comments received after these dates will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before these dates.

ADDRESSES: You may submit comments by any one of the following methods. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site Regulations.gov. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2004–0006]. Address questions about NRC dockets to Carol Gallagher, telephone (301) 492–3668; e-mail *Carol.Gallagher@nrc.gov.*

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: Rulemaking.Comments@nrc.gov. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1677.

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 492–3446.

You can access publicly available documents related to this document using the following methods:

NRC's Public Document Room (PDR): The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, or (301) 415–4737, or by e-mail to *PDR.Resource@nrc.gov.*

Federal Rulemaking Web site: Public comments and supporting materials related to this proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2004–0006.

FOR FURTHER INFORMATION CONTACT: Richard Dudley, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1116, e-mail *Richard.Dudley@nrc.gov.*

SUPPLEMENTARY INFORMATION: In a letter dated August 18, 2009 (ADAMS Accession No. ML092320126), the Nuclear Energy Institute (NEI) requested that the NRC extend the public comment period for the risk-informed ECCS rule by an additional 120 days. In its letter, NEI stated:

[I]mplementation of the rule as currently drafted would require technical analyses in a wide variety of areas. It is therefore necessary to solicit input from numerous sources in developing comments on the draft supplemental proposed rule, and NEI is coordinating industry comments with the NSSS owners groups, vendors, and licensees to ensure that the comments submitted by industry are of high quality and that they reflect a consensus industry perspective. However, the comment period provided in the August 10th **Federal Register** Notice is insufficient given the volume and breadth of material that requires a thorough technical review. Extending the comment period would provide the time necessary to fully assess the impact of the draft supplemental proposed rule and arrive at a set of comments that are of highest value to the NRC staff in considering this important rulemaking.

In view of the NRC's desire to receive high quality comments from external stakeholders who would be directly affected by the supplemental proposed rule and recognizing the quantity of information to be analyzed and the

coordination efforts needed by and among those stakeholders, the comment period for the proposed rulemaking will be extended for all stakeholders for an additional 120 days. The comment period for the information collection aspects of this proposed rulemaking will be extended by 60 days. The NRC believes that these extensions will allow sufficient time for all stakeholders to develop and provide meaningful comments on the proposed rule.

The comment submittal deadline for the proposed rule is extended from the original September 24, 2009, deadline to January 22, 2010, and the information collection analysis comment deadline is extended from the original September 9, 2009, deadline to November 9, 2009.

Dated at Rockville, Maryland, this 18th day of September 2009.

For the Nuclear Regulatory Commission.

Bruce S. Mallett,

Acting Executive Director for Operations.

[FR Doc. E9–23043 Filed 9–23–09; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0791; Directorate Identifier 2008–NM–213–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000 and Falcon 2000EX Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

During the overhaul of a Main Landing Gear (MLG) of a Falcon 2000, the sleeve on the hydraulic flow restrictor in the shock absorber was found displaced, because of the rupture of its three retaining screws. * * *

Failure of the retaining screws has been determined to be the final phase of a slow unscrewing process under normal operational conditions. The unsafe condition only exists once the three screws have failed.

* * * * *

The unsafe condition is failure of three retaining screws of the MLG shock absorber which could result in collapse of the landing gear during ground maneuvers or landing. The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by October 26, 2009.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221 or 425–227–1152.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2009–0791; Directorate Identifier 2008–NM–213–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*; including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0050, dated March 5, 2009 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During the overhaul of a Main Landing Gear (MLG) of a Falcon 2000, the sleeve on the hydraulic flow restrictor in the shock absorber was found displaced, because of the rupture of its three retaining screws. In this situation, the energy dissipation function of the shock absorber is lost and high loads may be transmitted to the aircraft structure during landing. Structural integrity may thus not be guaranteed over the entire certified landing conditions domain particularly in combination of high landing weight and high vertical speed.

Failure of the retaining screws has been determined to be the final phase of a slow unscrewing process under normal operational conditions. The unsafe condition only exists once the three screws have failed.

For the reasons described above, Airworthiness Directive (AD) 2008–0178 had been released to require a repetitive borescope inspection of the flow restriction system [for damage; such as condition of the sleeve of the dumping device, and broken or loose screws] and, if necessary, repair of the shock absorber per Dassault Aviation Service Bulletins (SB) F2000–367 and F2000EX–185 (corresponding to modification M3120) developed with the landing gear manufacturer's instructions.* * *

After qualification testing, modification M3120 has been approved by EASA as a definitive solution.

As a consequence, the present AD retains the requirements of AD 2008–0178 which is superseded and introduces M3120 as a terminating action to the repetitive inspections requirement, and further mandates its embodiment no later than the next MLG shock absorber overhaul.

The unsafe condition is failure of three retaining screws of the MLG shock

absorber which could result in collapse of the landing gear during ground maneuvers or landing. The repair can include additional inspections, modifying the shock absorbers, and contacting the manufacturer for repair instructions and doing the repair before further flight. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Dassault has issued Mandatory Service Bulletin F2000EX–167, Revision 1, dated December 1, 2008; Service Bulletin F2000EX–185, Revision 2, dated February 4, 2009; Mandatory Service Bulletin F2000–366, Revision 2, dated December 1, 2008; and Service Bulletin F2000–367, Revision 4, dated February 4, 2009. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 236 products of U.S. registry. We also estimate that it would take about 25 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $472,000, or $2,000 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Dassault Aviation: Docket No. FAA–2009–0791; Directorate Identifier 2008–NM–213–AD.

Comments Due Date

(a) We must receive comments by October 26, 2009.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Dassault Model Falcon 2000 and Falcon 2000EX airplanes, certificated in any category.

Subject

(d) Air Transport Association (ATA) of America Code 32: Landing gear.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

During the overhaul of a Main Landing Gear (MLG) of a Falcon 2000, the sleeve on the hydraulic flow restrictor in the shock absorber was found displaced, because of the rupture of its three retaining screws. In this situation, the energy dissipation function of the shock absorber is lost and high loads may be transmitted to the aircraft structure during landing. Structural integrity may thus not be guaranteed over the entire certified landing conditions domain particularly in combination of high landing weight and high vertical speed.

Failure of the retaining screws has been determined to be the final phase of a slow unscrewing process under normal operational conditions. The unsafe condition only exists once the three screws have failed.

For the reasons described above, Airworthiness Directive (AD) 2008–0178 had been released to require a repetitive borescope inspection of the flow restriction system [for damage; such as condition of the sleeve of the dumping device, and broken or loose screws] and, if necessary, repair of the shock absorber per Dassault Aviation Service Bulletins (SB) F2000–367 and F2000EX–185 (corresponding to modification M3120) developed with the landing gear manufacturer's instructions.* * *

After qualification testing, modification M3120 has been approved by the European Aviation Safety Agency (EASA), as a definitive solution.

As a consequence, the present AD retains the requirements of AD 2008–0178 which is superseded and introduces M3120 as a terminating action to the repetitive inspections requirement, and further mandates its embodiment no later than the next MLG shock absorber overhaul.

The unsafe condition is failure of three retaining screws of the MLG shock absorber which could result in collapse of the landing gear during ground maneuvers or landing. The repair can include additional inspections, modifying the shock absorbers, and contacting the manufacturer for repair instructions and doing the repair before further flight.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) For airplanes on which each new or previously overhauled MLG shock absorber has accumulated 4,200 or more total landings since new or overhauled as of the effective date of this AD: Within 8 months after the effective date of this AD, inspect the shock absorber for damage, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin F2000–366, Revision 2; or F2000EX–167, Revision 1; both dated December 1, 2008, as applicable. If any damage is found, before further flight, repair the shock absorber in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin F2000–366, Revision 2; or F2000EX–167, Revision 1; both dated December 1, 2008, as applicable.

(2) For airplanes on which each new or previously overhauled MLG shock absorber has accumulated 1,900 or more total landings and less than 4,200 total landings since new or overhauled as of the effective date of this AD: At the applicable compliance time specified in paragraph (f)(2)(i) or (f)(2)(ii) of this AD, inspect the shock absorber for damage, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin F2000–366, Revision 2; or F2000EX–167, Revision 1; both dated December 1, 2008, as applicable. If any damage is found, before further flight, repair the shock absorber in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin F2000–366, Revision 2; or F2000EX–167, Revision 1; both dated December 1, 2008, as applicable.

(i) For airplanes on which 6 or more steep-approach landings have been performed before the effective date of this AD: Within 8 months after the effective date of this AD, do the actions required by paragraph (f)(2) of this AD.

(ii) For airplanes on which less than or equal to 5 steep-approach landings have been performed before the effective date of this AD: Within 18 months after the effective date of this AD or 5,000 total landings since new or overhauled, whichever occurs first, do the actions required by paragraph (f)(2) of this AD.

(3) For airplanes on which each new or previously overhauled MLG shock absorber has accumulated less than 1,900 total landings since new or overhauled as of the effective date of this AD: Before the accumulation of 3,000 total landings since new or overhauled, inspect the shock absorber for damage, in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin F2000–366, Revision 2; or F2000EX–167, Revision 1, both dated December 1, 2008, as applicable. If any damage is found, before further flight, repair the shock absorber in accordance with the Accomplishment Instructions of Dassault Mandatory Service Bulletin F2000–366, Revision 2, or F2000EX–167, Revision 1; both dated December 1, 2008, as applicable.

(4) Repeat the inspections required by paragraphs (f)(1), (f)(2), and (f)(3) of this AD, as applicable, thereafter at intervals not to exceed 1,900 landings until accomplishment of paragraph (f)(6) of this AD.

(5) Accomplishment of any inspection or repair before the effective date of this AD in accordance with the applicable service information in Table 1 of this AD is acceptable for compliance with the corresponding requirements of this AD.

TABLE 1—CREDIT SERVICE INFORMATION

Document	Revision	Date
Dassault Service Bulletin F2000–366	Original	April 18, 2008.
Dassault Mandatory Service Bulletin F2000–366	1	August 18, 2008.
Dassault Mandatory Service Bulletin F2000EX–167	Original	August 18, 2008.

(6) For airplanes on which Dassault Modification M3120 has not been embodied as of the effective date of this AD: Before the accumulation of 6,000 total landings or 144 months on each new or previously overhauled MLG shock absorber, whichever occurs first: Modify the existing left- and right-hand MLG shock absorbers by installing MLG shock absorbers with part number (P/N) D23365000–4 or D23366000–4 (for Falcon 2000 airplanes) or D23745000–2 or D23746000–2 (for Falcon 2000EX airplanes), in accordance with the Accomplishment Instructions of Dassault Service Bulletin F2000EX–185, Revision 2; or F2000–367, Revision 4; both dated February 4, 2009, as applicable. Where the service bulletins specify contacting the manufacturer for repair instructions, before further flight, contact the manufacturer and do the repair.

(7) Accomplishment of the modification required by paragraph (f)(6) of this AD before the effective date of this AD in accordance with the applicable service information in Table 2 of this AD is acceptable for compliance with the corresponding requirements of this AD.

TABLE 2—CREDIT SERVICE INFORMATION

Document	Revision	Date
Dassault Service Bulletin F2000EX–185	Original	August 18, 2008.
Dassault Service Bulletin F2000EX–185	1	December 1, 2008.
Dassault Service Bulletin F2000–367	1	July 10, 2008.
Dassault Service Bulletin F2000–367	2	August 18, 2008.
Dassault Service Bulletin F2000–367	3	December 1, 2008.

(8) Accomplishment of the modification required by paragraph (f)(6) of this AD ends the repetitive inspections required by paragraph (f)(4) of this AD.

(9) As of the effective date of this AD, no person may install on any airplane as a replacement part, a MLG shock absorber, unless it has been modified according to the requirements in paragraph (f)(6) of this AD.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows:

(1) Although the MCAI requires repairing any damage within the applicable time or landing limits specified in Dassault Mandatory Service Bulletin F2000–366, Revision 2, or F2000EX–167, Revision 1, both dated December 1, 2008; this AD requires that the repair be done before further flight.

(2) Paragraph (1) of the MCAI requires updating the operator's maintenance program; however, that action is not required by this AD. The maintenance program does not require FAA approval.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards District Office.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2009–0050, and the service information in Table 3 of this AD, for related information.

TABLE 3—SERVICE INFORMATION

Document	Revision	Date
Dassault Mandatory Service Bulletin F2000EX–167	1	December 1, 2008.
Dassault Service Bulletin F2000EX–185	2	February 4, 2009.
Dassault Mandatory Service Bulletin F2000–366	2	December 1, 2008.
Dassault Service Bulletin F2000–367	4	February 4, 2009.

Issued in Renton, Washington, on September 16, 2009.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E9–23095 Filed 9–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2009–0695; Airspace Docket No. 09–AWP–7]

Proposed Establishment and Modification of Class E Airspace; Bishop, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E surface airspace and modify existing Class E airspace at Eastern Sierra Regional Airport, Bishop, CA. Additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Eastern Sierra Regional Airport, Bishop, CA. The FAA is proposing this action to enhance the safety and management of aircraft operations at Eastern Sierra Regional Airport, Bishop, CA.

DATES: Comments must be received on or before November 9, 2009.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone (202) 366–9826. You must identify FAA Docket No. FAA–2009–0695; Airspace Docket No. 09–AWP–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue, SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2009–0695 and Airspace Docket No. 09–AWP–7) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2009–0695 and Airspace Docket No. 09–AWP–7''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Area,

Operations Support Group, 1601 Lind Avenue, SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace designated as surface areas and modifying existing Class E airspace extending upward from 700 feet above the surface at Eastern Sierra Regional Airport, Bishop, CA. Controlled airspace is necessary to accommodate aircraft using the new RNAV (GPS) SIAP at Eastern Sierra Regional Airport, Bishop, CA. This action would enhance the safety and management of aircraft operations at Eastern Sierra Regional Airport, Bishop, CA.

Class E airspace designations are published in paragraph 6002 and 6005, respectively, of FAA Order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Eastern Sierra Regional Airport, Bishop, CA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AWP CA, E2 Bishop, CA [New]

Eastern Sierra Regional, CA
(Lat. 37°22′23″ N., long. 118°21′49″ W.)

Within a 4.2-mile radius of Eastern Sierra Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA, E5 Bishop, CA [Modified]

Eastern Sierra Regional, CA
(Lat. 37°22′23″ N., long. 118°21′49″ W.)
Beatty VORTAC
(Lat. 36°48′02″ N., long. 116°44′52″ W.)
LIDAT Intersection
(Lat. 37°25′49″ N., long. 117°16′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Eastern Sierra Regional Airport and that airspace within 2.2 miles each side of the Eastern Sierra Regional Airport 337° bearing extending from the 6.7-mile radius to 27.8 miles northwest of the Eastern Sierra Regional Airport; and that airspace extending upward from 1,200 feet above the surface of the earth bounded by a line beginning at lat. 38°11′08″ N., long. 118°46′30″ W.; to lat. 38°13′14″ N., long. 118°41′00″ W.; to lat. 38°14′25″ N., long. 118°17′04″ W.; to lat. 38°03′17″ N., long. 118°02′30″ W.; to lat. 37°41′20″ N., long. 118°16′42″ W.; to lat. 37°09′50″ N., long. 118°00′13″ W.; to lat. 37°02′00″ N., long. 118°21′30″ W.; to lat. 38°11′08″ N., long. 118°57′00″ W.; thence to the point of origin. That airspace extending upward from 12,500 feet MSL within 4.3 miles each side of a direct course between the Eastern Sierra Regional Airport and LIDAT Intersection, 36.5 miles 12,500 feet MSL, 10,500 feet MSL LIDAT Intersection; and within 4.3 miles each side of a direct course between Eastern Sierra Regional Airport and the Beatty VORTAC 69.5 miles 12,500 feet MSL, 10,500 feet MSL Beatty VORTAC.

* * * * *

Issued in Seattle, Washington, on September 18, 2009.

William Buck,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. E9–23105 Filed 9–23–09; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[REG–155929–06]

RIN 1545–BG31

Payout Requirements for Type III Supporting Organizations That Are Not Functionally Integrated

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations regarding the requirements to qualify as a Type III supporting organization that is operated in connection with one or more supported organizations. The regulations reflect changes to the law made by the Pension Protection Act of 2006. The regulations will affect Type III supporting organizations and their supported organizations.

DATES: Written or electronic comments and requests for a public hearing must be received by *December 23, 2009.*

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–155929–06), room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through

Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–155929–06), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *http://www.regulations.gov/* (IRS REG–155929–06).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Philip T. Hackney or Don R. Spellmann at (202) 622–6070; concerning submissions of comments and requests for a public hearing, Richard A. Hurst at (202) 622–7180 (not toll-free numbers) or *Richard.A.Hurst@irscounsel.treas.gov.*

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by *November 23, 2009.* Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this proposed regulation is in Prop. Reg. § 1.509(a)–4(i)(2). The collection of information flows from section 509(f)(1)(A), which requires a Type III supporting organization to provide to each of its supported organizations such information as the Secretary may require to ensure that the Type III supporting organization is responsive to the needs or demands of its supported organization(s). The likely recordkeepers are Type III supporting organizations.

Estimated total annual reporting burden: 8,400 hours.

Estimated average annual burden hours per recordkeeper: Two hours.

Estimated number of recordkeepers: 4,200.

Estimated frequency of collection of such information: Annual.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background

An organization described in section 501(c)(3) of the Internal Revenue Code (Code) is classified as either a private foundation or a public charity. To be classified as a public charity, an organization must meet the requirements of section 509(a)(1), (2), (3), or (4). Organizations described in section 509(a)(3) are known as supporting organizations. Such organizations achieve their status by providing support to one or more organizations described in section 509(a)(1) or (2), which in this context are referred to as supported organizations.

To meet the requirements of section 509(a)(3), an organization must satisfy an organizational test, an operational test, a relationship test, and a disqualified person control test. The organizational and operational tests require that the supporting organization be organized and at all times thereafter operated exclusively for the benefit of, to perform the functions of, or to conduct the purposes of one or more supported organizations. The relationship test requires the supporting organization to establish one of three types of relationships with one or more supported organizations. Finally, the disqualified person control test requires that the supporting organization not be controlled directly or indirectly by certain disqualified persons. Although each of these tests is a necessary requirement for an organization to establish that it qualifies as a supporting organization, this notice of proposed rulemaking (NPRM) focuses primarily on the relationship test.

Three Types of Supporting Organizations

Treas. Reg. § 1.509(a)–4(f)(2) provides that a supporting organization must maintain one of three types of structural or operational relationships with its supported organization(s). A supporting organization that is operated, supervised or controlled by one or more supported organizations is commonly known as a Type I supporting organization. The relationship of a Type I supporting organization with its supported organization(s) is comparable to that of a corporate parent-subsidiary relationship. A supporting organization that is supervised or controlled in connection with one or more supported organizations is commonly known as a Type II supporting organization. The relationship of a Type II supporting organization with its supported organization(s) is comparable to a corporate brother-sister relationship. A supporting organization that is operated in connection with one or more supported organizations is commonly known as a Type III supporting organization. This NPRM focuses primarily on Type III supporting organizations.

Qualification Requirements for Type III Supporting Organizations Prior to Enactment of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA)

Prior to the enactment of the PPA, the regulations under section 509(a)(3) generally provided that an organization is ''operated in connection with'' one or more supported organizations if it meets a ''responsiveness test'' and an ''integral part test.''

Responsiveness Test

Treas. Reg. § 1.509(a)–4(i)(2)(i) provides that an organization meets the responsiveness test if the organization is responsive to the needs or demands of its supported organizations. Treas. Reg. § 1.509(a)–4(i)(2)(ii) provides three ways that a supporting organization may demonstrate responsiveness to a supported organization: (1) The supported organization appoints or elects one or more of the officers, directors, or trustees of the supporting organization; (2) one or more members of the governing body of the supported organization serve as officers, directors, or trustees of, or hold other important offices in, the supporting organization; or (3) the officers, directors, or trustees of the supporting organization maintain

a close continuous working relationship with the officers, directors, or trustees of the supported organization. In all three cases, the relationship must result in the supported organization having a significant voice in the investment policies of the supporting organization, the timing and the manner of making grants, the selection of the grant recipients of the supporting organization, and direction over the use of the income or assets of the supporting organization.

The existing regulations also provide an alternative means for charitable trusts to satisfy the responsiveness test. Under Treas. Reg. § 1.509(a)–4(i)(2)(iii), a supporting organization is responsive if: (1) it is a charitable trust under State law, (2) each specified supported organization is a named beneficiary under the charitable trust's governing instrument, and (3) each beneficiary organization has the power to enforce the trust and compel an accounting under State law.

In the case of an organization that was supporting one or more supported organizations before November 20, 1970, Treas. Reg. § 1.509(a)–4(i)(1)(ii) provides that additional facts and circumstances, such as a historic and continuing relationship between the supporting organization and its supported organization(s), also may be taken into account to establish compliance with the responsiveness test.

Integral Part Test

Treas. Reg. § 1.509(a)–4(i)(3)(i) provides that a supporting organization meets the integral part test by maintaining a significant involvement in the operations of one or more supported organizations that are dependent upon the supporting organization for the type of support which it provides. Under the existing regulations, there are two alternative ways to meet the integral part test: (1) The ''but for'' test under Treas. Reg. § 1.509(a)–4(i)(3)(ii); or (2) the ''attentiveness'' test under Treas. Reg. § 1.509(a)–4(i)(3)(iii).

Treas. Reg. § 1.509(a)–4(i)(3)(ii) states that the ''but for'' test is satisfied if ''the activities engaged in [by the supporting organization] for or on behalf of the supported organizations are activities to perform the functions of, or to carry out the purposes of, such organizations, and, but for the involvement of the supporting organization, would normally be engaged in by the supported organizations themselves.''

The ''attentiveness'' test under Treas. Reg. § 1.509(a)–4(i)(3)(iii) requires a supporting organization to: (1) Make payments of substantially all of its income to or for the use of one or more supported organizations, (2) provide enough support to one or more supported organizations to ensure the attentiveness of such organization(s) to the operations of the supporting organization; and (3) pay a substantial amount of the total support of the supporting organization to those supported organizations that meet the attentiveness requirement. Rev. Rul. 76–208, 1976–1 CB 161 (*see* § 601.601(d)(2)(ii)(b)), provides that the phrase ''substantially all of its income'' in Treas. Reg. § 1.509(a)–4(i)(3)(iii) means at least 85 percent of adjusted net income.

PPA Changes to Qualification Requirements for Type III Supporting Organizations

The PPA made five changes to the requirements an organization must meet to qualify as a Type III supporting organization:

(1) It removed the alternative test for charitable trusts as a means of meeting the responsiveness test;

(2) It required the Secretary of the Treasury to set a new payout requirement for organizations that are not functionally integrated (generally, those organizations that met the integral part test by satisfying the attentiveness test under the existing regulations) to ensure that such organizations pay a ''significant amount'' to their supported organizations;

(3) It provided that a Type III supporting organization must annually provide to each of its supported organizations such information as the Secretary may require to ensure that the supporting organization is responsive to the needs or demands of its supported organization(s);

(4) It prohibited a Type III supporting organization from supporting any supported organization not organized in the United States; and

(5) It prohibited a Type I or Type III supporting organization from accepting a gift or contribution from a person who, together with certain related persons, directly or indirectly controls the governing body of a supported organization of the Type I or Type III supporting organization.

Notice 2006–109

On December 18, 2006, the Treasury Department and the IRS released Notice 2006–109 (2006–51 IRB 1121) (*see* § 601.601(d)(2)(ii)(*b*)), which alerted taxpayers to the new supporting organization rules enacted by the PPA; provided interim guidance, including reliance standards for private foundations making grants to supporting organizations; and solicited comments regarding the new supporting organization requirements. Fifteen comments and numerous phone calls were received in response to the request for comments contained in Notice 2006–109.

Advanced Notice of Proposed Rulemaking (ANPRM)

On August 2, 2007, the Treasury Department and the IRS issued an ANPRM titled ''Payout Requirements for Type III Supporting Organizations that Are Not Functionally Integrated'' (Reg-155929–06, 72 FR 148). The ANPRM described proposed rules to implement the PPA changes to the Type III supporting organization requirements, and solicited comments regarding those proposed rules.

In the ANPRM, the Treasury Department and the IRS proposed that all Type III supporting organizations would be required to meet the responsiveness test under Treas. Reg. § 1.509(a)–4(i)(2)(ii). In addition, the Treasury Department and the IRS proposed that Type III supporting organizations that are functionally integrated would be required to meet: (A) The ''but for'' test in existing Treas. Reg. § 1.509(a)–4(i)(3)(ii); (B) an expenditure test resembling the section 4942(j)(3)(A) qualifying distributions test for private operating foundations; and (C) an assets test resembling the section 4942(j)(3)(B) alternative assets test for private operating foundations. However, the Treasury Department and the IRS indicated that an exception would be provided for certain Type III supporting organizations that oversee or facilitate the operation of an integrated system, such as certain hospital systems. The ANPRM stated that such organizations would be classified as functionally integrated as long as they satisfied the responsiveness and ''but for'' tests under the existing regulations.

The ANPRM proposal provided that a non-functionally integrated Type III supporting organization would be required to make an annual payout equal to the annual payout required from a private non-operating foundation (generally, five percent of the fair market value of non-exempt-use assets). The Treasury Department and the IRS also proposed a limitation on the number of supported organizations a non-functionally integrated Type III supporting organization could support.

The IRS received over 40 comments and numerous phone calls in response to the ANPRM. After consideration of all comments received, the Treasury Department and the IRS are issuing this

NPRM regarding the new qualification requirements for Type III supporting organizations. The major areas of comment in response to the ANPRM are discussed in the preamble under Explanation of Provisions.

Explanation of Provisions

Summary of Proposed Criteria To Qualify as a Type III Supporting Organization

The proposed regulations provide that every Type III supporting organization must: (1) Satisfy the notification requirement set forth under Prop. Reg. § 1.509(a)–4(i)(2); (2) meet the responsiveness test set forth under Prop. Reg. § 1.509(a)–4(i)(3); and (3) demonstrate that it is an integral part of one or more supported organizations. A Type III supporting organization demonstrates that it is an integral part of a supported organization by satisfying either the requirements for functionally integrated Type III supporting organizations set forth in Prop. Reg. § 1.509(a)–4(i)(4), or the requirements for non-functionally integrated Type III supporting organizations set forth in Prop. Reg. § 1.509(a)–4(i)(5). Further, as set forth in Prop. Reg. § 1.509(a)–4(i)(10), a Type III supporting organization may not support a supported organization that is organized outside of the United States. Finally, as set forth in Prop. Reg. § 1.509(a)–4(f)(5), Type I and Type III supporting organizations are prohibited from accepting a gift or contribution from a person who, together with certain related persons, directly or indirectly controls the governing body of a supported organization of the Type I or Type III supporting organization.

Requirement To Notify Supported Organizations

Prop. Reg. § 1.509(a)–4(i)(2) implements section 509(f)(1)(A) of the Code, which provides that a Type III supporting organization must provide to each of its supported organizations such information as the Secretary may require to ensure that the supporting organization is responsive to the needs or demands of the supported organization.

The Treasury Department and the IRS requested comments in the ANPRM on the type of information a Type III supporting organization should be required to provide to its supported organizations. One commentator recommended that the proposed regulations adopt a recommendation of the Panel on the Nonprofit Sector, which suggested requiring Type III supporting organizations to provide annually to their supported organizations: (1) A copy of governing documents, including those filed with Form 1023, ''Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code,'' and any updates; (2) a copy of Form 990, ''Return of Organization Exempt from Income Tax;'' and (3) an annual report of activities, including a narrative, financial detail, and a description of the support provided (including how it was calculated or determined) and a projection of support to be provided in the subsequent year. Panel on the Nonprofit Sector, Strengthening Transparency, Governance, Accountability of Charitable Organizations (June 2005), at 45.

Another commentator recommended that the proposed regulations require only that the Form 990 be distributed to the ''lead'' supported organization. This commentator argued that any additional requirement would impose too much additional administrative burden and cost on the charitable sector. The comment also suggested allowing the notification to be provided electronically.

The proposed regulations require that each taxable year, a Type III supporting organization must provide to each of its supported organizations: (A) A written notice addressed to a principal officer of the supported organization identifying the supporting organization and describing the amount and type of support it provided to the supported organization in the past year; (B) a copy of the supporting organization's most recently filed Form 990; and (C) a copy of the supporting organization's governing documents, including any amendments. Copies of governing documents need only be provided once. The proposed regulations provide that the required notice and documents may be delivered by electronic media. Organizations must satisfy the notification requirement to qualify as a Type III supporting organization and should retain proof of delivery in their records.

Responsiveness Test

The proposed regulations provide that all Type III supporting organizations, including those organized as charitable trusts, must meet the responsiveness test under existing Treas. Reg. § 1.509(a)–4(i)(2)(ii).

The ANPRM proposed to apply the responsiveness test to all Type III supporting organizations and to remove the special rule for charitable trusts. In response to the ANPRM, commentators argued that the PPA did not require imposition of the general responsiveness test on charitable trusts, and that the test could be difficult to satisfy because of State-law fiduciary requirements on trusts. Thus, a commentator recommended the development of an alternate charitable trust test based on facts and circumstances.

One commentator recommended exempting trusts managed by institutional trustees from the responsiveness test. The commentator stated that institutional trustees employ strict rules to manage trusts, thereby making abuse of these trusts highly unlikely. Another commentator recommended transition relief for trusts in existence on the date the PPA was enacted similar to that provided in Treas. Reg. § 1.509(a)–4(i)(4) for trusts established before November 20, 1970, which would apply to a trust with a lengthy and continuous history of distributions, and no discretion to vary the beneficiaries or the amount of distributions.

The proposed regulations require that all Type III supporting organizations demonstrate the necessary relationship between its officers, directors or trustees and those of the supported organization, and show that this relationship results in the officers, directors or trustees of the supported organization having a significant voice in the operations of the supporting organization. The proposed regulations do not adopt a special rule for trusts.

The Treasury Department and the IRS believe that requiring charitable trusts to meet the responsiveness test set forth in these proposed regulations is consistent with Congress' intent in the PPA. The Treasury Department and the IRS expect that some charitable trusts will be able to demonstrate that they meet the requirements of the responsiveness test. The proposed regulations provide examples that illustrate factors that could lead to a conclusion that a supporting organization organized as a trust is responsive to the needs of a supported organization. Additionally, the Treasury Department and the IRS request comments regarding a specific responsiveness rule for trusts that would be consistent with the existing responsiveness test and the Congressional intent behind section 1241 of the PPA, which removed the alternative trust test in the regulations.

Integral Part Test—Functionally Integrated Type III Supporting Organizations

The proposed regulations provide that a Type III supporting organization is functionally integrated if it either: (1)

Engages in activities substantially all of which directly further the exempt purposes of the supported organization(s) to which it is responsive by performing the functions of, or carrying out the purposes of, such supported organization(s) and that, but for the involvement of the supporting organization, would normally be engaged in by the supported organization(s); or (2) is the parent of each of its supported organizations.

The ANPRM proposed requiring an organization to meet not only the ''but for'' test under existing Treas. Reg. § 1.509(a)–4(i)(3)(ii), but also two additional tests—an expenditure test and an assets test—in order to qualify as a functionally integrated Type III supporting organization. In general, commentators said that the additional tests were unduly restrictive and more burdensome than those proposed for non-functionally integrated Type III supporting organizations. These commentators argued that the ANPRM's expenditure test was arbitrary and that Congress did not authorize the Secretary to impose a payout requirement on functionally integrated organizations. Many commentators highlighted differences between a Type III supporting organization and a private operating foundation that warrant treating these types of organizations differently, including the fact that a supporting organization is dedicated to specific organizations and that those specified organizations rely on the supporting organization for consistent support.

Many commentators recommended exempting certain types of organizations from the proposed requirements for functionally integrated Type III supporting organizations, such as long-standing supporting organizations and supporting organizations that support governmental agencies, religious organizations, and grant-making organizations. Several commentators recommended that the proposed regulations take into account the historic and continuing relationship of ''long-standing'' organizations with their supported organizations. Additionally, many commentators requested an exemption for supporting organizations of governmental entities, contending that these organizations are not subject to abuse because of their connection to a governmental entity. These commentators argued that supporting organizations choose a Type III structure to ensure that funds are dedicated long-term to a specific purpose, and removed from the appropriation process of the government.

In formulating the criteria in the proposed regulations, the Treasury Department and the IRS also noted the suggestion in the Joint Committee on Taxation's Technical Explanation of the PPA that ''substantially all of the activities of [a functionally integrated Type III supporting organization] should be activities in direct furtherance of the functions or purposes of supported organizations.'' Staff of the Joint Committee on Taxation, Technical Explanation of H.R. 4, The ''Pension Protection Act of 2006'' (Aug. 3, 2006), at 360 n.571 (Technical Explanation). In the Technical Explanation, the Joint Committee on Taxation also expressed concern that ''the current regulatory standards for satisfying the integral part test not by reason of a payout are not sufficiently stringent to ensure that there is a sufficient nexus between the supporting and supported organizations.'' Technical Explanation at 360 n.571.

The Treasury Department and the IRS believe that a sufficient nexus exists between a supporting organization and its supported organization(s) where the supporting organization engages in activities that directly further the exempt purposes of the supported organization(s) and that would otherwise be conducted by the supported organization itself. Accordingly, the proposed regulations provide that a Type III supporting organization is functionally integrated if it either: (1) Engages in activities (a) substantially all of which directly further the exempt purposes of the supported organization(s) to which it is responsive by performing the functions of, or carrying out the purposes of, such supported organization(s) and (b) that, but for the involvement of the supporting organization, would normally be engaged in by the supported organization(s); or (2) is the parent of each of its supported organizations. The Treasury Department and the IRS request comments on how guidance might clarify the application of the ''substantially all'' test in this context. The proposed regulations do not adopt the expenditure test and the assets test described in the ANPRM.

The proposed regulations provide that a supporting organization directly furthers the exempt purposes of its supported organization by holding or managing exempt-use assets but does not directly further such exempt purposes by fundraising, grantmaking, or investing and managing non-exempt-use assets. The Treasury Department and the IRS believe that fundraising, grantmaking, and investing and managing non-exempt-use assets do not alone establish a sufficient nexus between a supporting organization and its supported organization. Further, the Treasury Department and the IRS believe that an organization that does not engage in activities that directly further a exempt purpose will achieve a sufficient nexus with its supported organization(s) only if it distributes a significant amount to its supported organizations, as Congress directed in the PPA.

The Treasury Department and the IRS recognize the unique circumstances of a governmental entity whose assets are subject to the appropriations process of a Federal, State, local or Indian Tribal government and that therefore organizes a Type III supporting organization to remove assets from the appropriations process of the government. The proposed regulations therefore provide an exception under which a supporting organization that supports a single governmental entity may treat investing and managing non-exempt-use assets as activities that directly further an exempt purpose, so long as a substantial part of the supporting organization's total activities directly furthers the exempt purposes of such governmental entity.

The proposed regulations specifically require that a functionally integrated Type III supporting organization's activities directly further the exempt purposes of those supported organizations with respect to which the supporting organization meets the responsiveness test under Prop. Reg. § 1.509(a)–4(i)(3). The Treasury Department and the IRS request comments on this requirement.

The proposed regulations provide that a supporting organization will be treated as the parent of a supported organization if the supporting organization exercises a substantial degree of direction over the policies, programs, and activities of the supported organization, and the majority of the officers, directors, or trustees of the supported organization is appointed or elected, directly or indirectly, by the governing body, members of the governing body, or officers of the supporting organization acting in their official capacity. Thus, the supporting organization could qualify as a parent of a second-tier (or lower) subsidiary. The classification of a parent supporting organization as functionally integrated is intended to apply to supporting organizations that oversee or facilitate the operation of an integrated system, such as hospital systems.

The proposed regulations provide examples that illustrate the

requirements for functionally integrated Type III supporting organizations.

Integral Part Test—Non-Functionally Integrated Type III Supporting Organizations

The proposed regulations provide that a Type III supporting organization is non-functionally integrated if it satisfies a distribution requirement equal to five percent of the fair market value of non-exempt-use assets and an attentiveness requirement.

Section 1241(d)(1) of the PPA directed the Secretary of the Treasury to promulgate new regulations on a payout requirement for non-functionally integrated Type III supporting organizations, based on income or assets, in order to ensure that these supporting organizations pay a significant amount to their supported organizations. The ANPRM proposal required an annual payout of five percent of the fair market value of non-exempt-use assets. Many commentators said that this payout rate was too high and would erode an organization's assets over time. The commentators said that a Type III supporting organization provides long-term consistent support to specific organizations, while private foundations may pay out to whomever they choose. Further, a supporting organization maintains a governance relationship with its supported organization(s) in a way that a private foundation does not. Commentators argued that because of these differences, the private foundation payout requirement should not be imposed on a supporting organization. Imposing a five percent payout, these commentators contend, would jeopardize the ability of supporting organizations to provide the kind of consistent, reliable, long-term support supported organizations have come to expect.

Commentators suggested a number of alternative payout rates. Many of them also recommended allowing an averaging of assets over a period of years for purposes of calculating the payout amount.

The ANPRM proposed to limit the number of organizations a non-functionally integrated Type III supporting organization can support to no more than five. The ANPRM further provided that Type III supporting organizations in existence before the date regulations are proposed may support more than five organizations, as long as the supporting organization pays 85 percent of its support to organizations to which the supporting organization is responsive.

Many commentators asked that the proposed regulations not include the limitation on the number of supported organizations a non-functionally integrated Type III supporting organization can support, arguing that such a rule is arbitrary. In particular, commentators pointed out that the original Senate bill associated with supporting organizations, contained in the Tax Increase Prevention and Reconciliation Act of 2005, Public Law 109–222 (120 Stat. 345 (2005)), limited the number of organizations a supporting organization could support to five, but that Congress ultimately did not enact such a limitation.

One commentator suggested that the proposed regulations adopt a rule that one-third of a non-functionally integrated Type III supporting organization's required distribution must go to a supported organization that is attentive to the supporting organization and to which the supporting organization is responsive.

Commentators recommended providing a transition period for the payout requirement to allow organizations sufficient time either to modify governing instruments or to sell assets.

A number of commentators suggested that the proposed regulations exempt Type III supporting organizations that (1) have no continuing involvement of donors or their family in the governance of the organization; and (2) before the date of enactment of PPA, had distributed to or for the benefit of its supported organizations an amount equal to or greater than the amounts transferred to the organization for which charitable deductions were allowed.

Under the proposed regulations, to qualify as a non-functionally integrated Type III supporting organization, an organization must meet a distribution requirement and an attentiveness requirement. The proposed regulations set the distribution requirement for non-functionally integrated Type III supporting organizations at five percent of non-exempt-use assets, and retain the concept of attentiveness that is in the current regulations. The proposed regulations do not adopt the five organization limit described in the ANPRM.

Distribution Requirement

To satisfy the distribution requirement of Prop. Reg. § 1.509(a)–4(i)(5)(ii), a Type III supporting organization that is not functionally integrated must distribute, with respect to each taxable year, to or for the use of its supported organizations, amounts equaling or exceeding five percent of the aggregate fair market value of its non-exempt-use assets (the annual distributable amount), on or before the last day of such taxable year. The annual distributable amount is determined based on asset values measured over the preceding taxable year. Thus, for example, a Type III supporting organization that is not functionally integrated would determine its annual distributable amount for its 2012 taxable year, which must be distributed on or before the last day of the organization's 2012 taxable year, based on asset values measured over its 2011 taxable year. A Type III supporting organization that is not functionally integrated is not required to distribute any amount in its first year of existence.

The proposed regulations generally draw from the regulations under section 4942 for principles on valuation, timing, and carryovers. However, the proposed regulations do not permit set-asides, which count towards a private foundation's distribution requirement under section 4942(g)(2). While Congress statutorily provided that set-asides constitute qualifying distributions for private foundations, Congress made no such statutory provision for supporting organizations. Rather, in the PPA, it directed that a payout requirement be implemented for non-functionally integrated Type III supporting organizations that would result in a prompt, robust flow of support to supported organizations. The Treasury Department and the IRS request comments on whether set-asides are necessary and consistent with Congressional intent in determining whether Type III supporting organizations that are not functionally integrated have distributed their annual distributable amount.

The proposed regulations also provide a slightly different rule regarding the carryover of excess distributions than is applicable to private foundations. Under section 4942(i), a private foundation that distributes more than its distributable amount may carry forward that excess amount for five years. However, when calculating qualifying distributions in a future year under section 4942, amounts paid out in the future year count first towards the required distributable amount, and any amount carried forward is not ''used'' in the future year to the extent that the organization made qualifying distributions in that future year. These proposed regulations reverse the ordering rule and first count any excess amount carried forward toward the non-functionally integrated Type III supporting organization's annual distributable amount, followed by amounts paid out in the later year.

The proposed regulations provide a reasonable cause exception for failure to meet the distribution requirement applicable to non-functionally integrated Type III supporting organizations. Under the exception, an organization that fails to meet the distribution requirement will not be classified as a private foundation in the taxable year for which it fails to meet such distribution requirement, if the organization establishes to the satisfaction of the Secretary that: (1) The failure was due solely to an incorrect valuation of assets, a ministerial error, or unforeseen events or circumstances that are beyond the organization's control; (2) the failure was due to reasonable cause and not to willful neglect; and (3) the distribution requirement is met within 180 days after the date the incorrect valuation or ministerial error was or should have been discovered, or 180 days after the organization is first able to make its required payout notwithstanding the unforeseen event or circumstances. The reasonable cause exception applies only to the distribution requirement of Prop. Reg. § 1.509(a)–4(i)(5)(ii), and not to the attentiveness requirement of Prop. Reg. § 1.509(a)–4(i)(5)(iii). The Treasury Department and the IRS request comments regarding the reasonable cause exception for the distribution requirement.

The proposed regulations also provide for an emergency temporary reduction in the annual distributable amount. Under Prop. Reg. § 1.509(a)–4(i)(5)(ii)(D), the Secretary may provide by publication in the Internal Revenue Bulletin for a temporary reduction in the annual distributable amount in the case of a disaster or emergency.

The Treasury Department and the IRS are aware that some supporting organizations impacted by the distribution requirement contained in these proposed regulations may be heavily invested in assets that are not readily marketable. The Treasury Department and the IRS request comments regarding the need for a transition rule for non-functionally integrated Type III supporting organizations whose assets, as of the effective date of these regulations, consist predominantly (in any event more than one-half) of assets that are not readily marketable.

Attentiveness Requirement

These proposed regulations modify the attentiveness requirement in existing Treas. Reg. § 1.509(a)–4(i)(3)(iii) to provide that an organization must distribute one-third or more of its annual distributable amount to one or more supported organizations that are attentive to the supporting organization and with respect to which the supporting organization meets the responsiveness test under Prop. Reg. § 1.509(a)–4(i)(3).

The proposed regulations provide that to demonstrate that a supported organization is attentive, a supporting organization must either: (1) Provide 10 percent or more of the supported organization's total support; (2) provide support that is necessary to avoid the interruption of the carrying on of a particular function or activity of the supported organization; or (3) provide an amount of support that based on all the facts and circumstances is a sufficient part of a supported organization's total support.

Consequences of Failure to Meet Requirements

A Type III supporting organization that fails to meet the requirements of these proposed regulations, once they are published as final or temporary regulations, will be classified as a private foundation. Once classified as a private foundation, the section 507 rules regarding termination of private foundation status apply. The Treasury Department and the IRS request comments on whether exceptions or special rules under section 507 are needed for Type III supporting organizations that are reclassified as private foundations as a result of the changes in the PPA.

Transition and Other Relief Provisions

Responsiveness Test

The proposed regulations continue to provide that additional facts and circumstances, such as a historic and continuing relationship with a supported organization, may be taken into account in establishing compliance with the responsiveness test for organizations that were operating prior to November 20, 1970.

Integral Part Test

The proposed regulations provide a transition rule for Type III supporting organizations in existence on the date these regulations are published in the **Federal Register** as final or temporary regulations. Under the transition rule, such organizations that met and continue to meet the requirements of existing Treas. Reg. § 1.509(a)–4(i)(3)(ii) (*i.e.*, an organization that meets the integral part test by satisfying the ''but for'' test) will be treated as meeting the requirements of a functionally integrated Type III supporting organization set forth in Prop. Reg. § 1.509(a)–4(i)(4) until the first day of the organization's first taxable year beginning after the date these proposed regulations are published as final or temporary regulations.

The proposed regulations also provide that Type III supporting organizations in existence on the date these regulations are published in the **Federal Register** as final or temporary regulations that met and continue to meet the requirements of existing Treas. Reg. § 1.509(a)–4(i)(3)(iii) will be treated as meeting the requirements of a non-functionally integrated Type III supporting organization set forth in Prop. Reg. § 1.509(a)–4(i)(5) until the first day of the organization's second taxable year beginning after the date these proposed regulations are published as final or temporary regulations. Such organizations will be required to value their assets in accordance with Prop. Reg. § 1.509(a)–4(i)(8) in the first taxable year beginning after final or temporary regulations are published, and to meet all of the requirements of Prop. Reg. § 1.509(a)–4(i)(5)(i) in the second taxable year beginning after the publication of these regulations as final or temporary regulations and for all succeeding taxable years.

For example, if the Treasury Department and the IRS publish these regulations as final or temporary regulations any time in 2010, a calendar-year non-functionally integrated Type III supporting organization must: (1) in 2010, meet all of the requirements of existing Treas. Reg. § 1.509(a)–4(i)(3)(iii) (*i.e.*, distribute to its supported organizations substantially all of its income in accord with the existing regulations); (2) in 2011, meet all of the requirements of current Treas. Reg. § 1.509(a)–4(i)(3)(iii) and value its assets according to Prop. Reg. § 1.509(a)–4(i)(8); and (3) in 2012, meet all of the requirements of Prop. Reg. § 1.509(a)–4(i)(5)(i), including the distribution requirement.

The proposed regulations also retain the exception from the integral part test for pre-November 20, 1970 trusts that meet certain other requirements found in current Treas. Reg. § 1.509(a)–4(i)(4).

The Treasury Department and the IRS request comments on whether additional transition relief is needed.

The proposed regulations eliminate current Treas. Reg. § 1.509(a)–4(i)(1)(iii), which provides an exception from the integral part test if an organization can establish that: (1) It met the payout requirement under current Treas. Reg. § 1.509(a)–4(i)(3)(iii)(a) for any five-year period; (2) it cannot meet such payout requirement for its current taxable year solely because the amount received by

one or more of the supported organizations is no longer sufficient to satisfy the attentiveness requirement; and (3) there has been a historic and continuing relationship of support between such organizations between the end of the five-year period and the taxable year in question. The Treasury Department and the IRS believe that the breadth of this exception is inconsistent with Congress' intent in mandating a payout requirement in the PPA.

Regulations Under Section 4943

This NPRM also includes proposed regulations under section 4943 that provide two transition rules to address excess business holdings for Type III supporting organizations affected by the PPA. The PPA applied the section 4943 excess business holdings excise tax to non-functionally integrated Type III supporting organizations. However, it provided that in calculating the ''present holdings'' of Type III supporting organizations in existence on August 17, 2006 (the date of enactment of the PPA), the transition rules that applied to private foundations in 1969, when section 4943 was first enacted, would apply. These transition rules effectively allow affected organizations additional time to dispose of certain business holdings.

The proposed regulations provide transition relief to a private foundation that qualified as a Type III supporting organization under section 509(a)(3) immediately before August 17, 2006, and that was reclassified as a private foundation under section 509(a) on or after August 17, 2006, solely as a result of the rules enacted by Section 1241 of the PPA. Thus, under the proposed regulations, the present holdings of such private foundations will be determined using the same rules that apply to Type III supporting organizations under section 4943(f)(7).

In addition, the Treasury Department and the IRS believe that pre-November 20, 1970 trusts that are exempted from the integral part test under current regulations and these proposed regulations should not be subject to the excess business holdings excise tax that applies to non-functionally integrated Type III supporting organizations. Therefore, the proposed regulations under section 4943 provide that a Type III supporting organization created as a trust before November 20, 1970, that meets the requirements of current Treas. Reg. § 1.509(a)–4(i)(4) and Prop. Reg. § 1.509(a)–4(i)(9), will be treated as a ''functionally integrated Type III supporting organization'' for purposes of section 4943(f)(3)(A).

Reliance on Prior Guidance

In Notice 2006–109, the Treasury Department and the IRS provided guidance to private foundations regarding determinations of the public charity status of a section 501(c)(3) organization when making grants. In particular, because a grant to a non-functionally integrated Type III supporting organization is not considered a qualifying distribution under section 4942, and is considered a taxable expenditure unless expenditure responsibility is exercised under section 4945, the notice provided criteria for determining whether a Type III supporting organization is functionally integrated and allowed private foundations to rely on those criteria for purposes of sections 4942 and 4945. Commentators to the ANPRM requested that the Treasury Department and the IRS permit private foundations to continue to rely on the guidance in Notice 2006–109 on private foundation grantmaking until the IRS issues determination letters addressing functionally integrated status.

Private foundations can continue to rely on the grantor reliance standards of section 3.0 of Notice 2006–109 until these proposed regulations are published as final or temporary regulations.

In addition, the IRS stated in a September 24, 2007 memorandum from the Director of Exempt Organizations Rulings and Agreements that it would issue functionally integrated Type III supporting organization determinations to organizations that meet the requirements for functionally integrated organizations set forth in the ANPRM. As of the date of the publication in the **Federal Register** of this notice of proposed rulemaking, the IRS will issue a functionally integrated Type III supporting organization determination only to organizations that meet the requirements of Prop. Reg. § 1.509(a)–4(i)(4). An organization that received a determination that it qualified as a functionally integrated Type III supporting organization under the ANPRM can continue to rely on such determination letter until final or temporary regulations are published in the **Federal Register**, so long as the organization continues to meet the requirements of either the ANPRM or Prop. Reg. § 1.509(a)–4(i)(4). An organization that receives a determination that it is a functionally integrated Type III supporting organization under either the ANPRM or these proposed regulations will be required to meet the requirements established in final or temporary regulations as of the first taxable year beginning after final or temporary regulations are published in the **Federal Register**.

Effective Date

The proposed regulations will apply to taxable years beginning after the date these rules are published in the **Federal Register** as final or temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that this regulation will not impact a substantial number of small entities. Based on IRS Statistics of Income data for 2005, there are over 1.4 million organizations that qualify as exempt from Federal income tax under section 501(c)(3). Approximately 13,000 of the 1.4 million exempt organizations reported as supporting organizations; approximately 4,200 supporting organizations reported as Type III supporting organizations; and it is expected that some fraction of the 4,200 Type III supporting organizations may be classified as non-functionally integrated Type III supporting organizations. Thus, the number of organizations affected by this regulation will not be substantial. The collection of information in this regulation that is subject to the Regulatory Flexibility Act will impose a minimal burden upon the affected organizations. All of the information required to be delivered is information that the organization is already required to maintain. Further, the distribution requirement in Prop. Reg. § 1.509(a)–4(i)(5)(ii) for non-functionally integrated Type III supporting organizations does not have a significant economic impact. A non-functionally integrated Type III supporting organization that fails to satisfy the distribution requirement of Prop. Reg. § 1.509(a)–4(i)(5)(ii) would be reclassified as a private non-operating foundation and as such, would be required under section 4942 to distribute amounts equal to five percent of the aggregate fair market value of non-exempt-use assets. In addition, as a private non-operating foundation, the organization would be subject to additional regulatory requirements and excise taxes that do not apply to non-functionally integrated Type III supporting organizations. Accordingly,

a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Request for Comments

Before these proposed regulations are adopted as final or temporary regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Treasury Department and the IRS request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Philip T. Hackney and Don R. Spellmann, Office of the Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 53 are proposed to be amended as follows:

PART 1—INCOME TAXES

Par. 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.509(a)–4 is amended by:

1. The term ''publicly supported organization'' is removed and the term ''supported organization'' is added in its place wherever it appears.
2. Paragraphs (a)(5) and (i) are revised.
3. New paragraphs (a)(6) and (f)(5) are added.

The revisions and additions read as follows:

§ 1.509(a)–4 Supporting organizations.

(a) * * *

(5) For purposes of this section, the term ''supporting organization'' means either an organization described in section 509(a)(3) or an organization seeking section 509(a)(3) status, depending upon its context.

(6) For purposes of this section, the term ''supported organization'' means an organization described in section 509(a)(1) or (2)—

(i) For whose benefit the supporting organization is organized and operated, or

(ii) With respect to which the supporting organization performs the functions, or carries out the purposes.

* * * * *

(f) * * *

(5) *Organizations controlled by donors.* An organization shall not be considered to be operated, supervised, or controlled by, or operated in connection with, one or more supported organizations, if such organization accepts any gift or contribution from any person (other than an organization described in section 509(a)(1), (2) or (4)) who—

(i) Directly or indirectly controls, either alone or together with persons described in paragraph (f)(5)(ii) or (iii) of this section, a supported organization supported by such supporting organization;

(ii) Is a member of the family (determined under section 4958(f)(4)) of an individual described in paragraph (f)(5)(i) of this section; or

(iii) Is a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting ''persons described in paragraph (f)(5)(i) or (ii) of this section'' for ''persons described in subparagraph (A) or (B) of paragraph (1)'' in paragraph (A)(i) thereof).

* * * * *

(i) *Meaning of ''operated in connection with''*—(1) *General Rule.* Except as otherwise provided in paragraphs (f)(5) and (i)(10) of this section, a supporting organization is operated in connection with one or more supported organizations only if it satisfies—

(i) The notification requirement in paragraph (i)(2) of this section;

(ii) The responsiveness test, which is set forth in paragraph (i)(3) of this section; and

(iii) The integral part test, which is set forth in paragraphs (i)(4) and (i)(5) of this section. An organization is an integral part of a supported organization if it is significantly involved in the operations of the supported organization and the supported organization is dependent upon the supporting organization for the type of support the supporting organization provides. An organization can demonstrate that it is an integral part of a supported organization only if it satisfies either the requirements for functionally integrated Type III supporting organizations set forth in paragraph (i)(4) of this section or the requirements for non-functionally integrated Type III supporting organizations set forth in paragraph (i)(5) of this section.

(2) *Notification requirement.* Each taxable year, the supporting organization must provide to each of its supported organizations—

(i) A written notice addressed to a principal officer of the supported organization indicating the type and amount of support provided by the supporting organization to the supported organization in the past year;

(ii) A copy of the supporting organization's most recently filed Form 990, ''Return of Organization Exempt from Income Tax,'' or other return required to be filed under section 6033; and

(iii) A copy of the supporting organization's governing documents, including its charter or trust instrument and bylaws, and any amendments to such documents. Copies of governing documents need not be provided in a given year if such documents have previously been provided and have not subsequently been amended.

(iv) *Electronic media.* Notification may be provided by electronic media.

(v) *Due date.* The required notifications shall be postmarked or electronically transmitted by the last day of the 5th month after the close of the supporting organization's tax year.

(3) *Responsiveness test.* (i) A supporting organization meets the responsiveness test if it is responsive to the needs or demands of a supported organization. Except as provided in paragraph (i)(3)(v) of this section, a supporting organization is responsive to the needs or demands of a supported organization if it satisfies the requirements of paragraphs (i)(3)(ii) and (i)(3)(iii) of this section.

(ii) A supporting organization satisfies the requirements of this paragraph (i)(3)(ii) if:

(A) One or more officers, directors, or trustees of the supporting organization are elected or appointed by the officers, directors, trustees, or membership of the supported organization;

(B) One or more members of the governing bodies of the supported

organization are also officers, directors, or trustees of, or hold other important offices in, the supporting organization; or

(C) The officers, directors, or trustees of the supporting organization maintain a close and continuous working relationship with the officers, directors, or trustees of the supported organization.

(iii) By reason of paragraphs (i)(3)(ii)(A), (i)(3)(ii)(B), or (i)(3)(ii)(C) of this section, the officers, directors or trustees of the supported organization have a significant voice in the investment policies of the supporting organization, the timing of grants, the manner of making them, and the selection of recipients by such supporting organization, and in otherwise directing the use of the income or assets of such supporting organization.

(iv) *Examples.* The provisions of this paragraph (i)(3) may be illustrated by the following examples:

Example (1). X, an organization described in section 501(c)(3), is a trust created under the last will and testament of Decedent. The trustee of X is a bank (Trustee). Under the trust instrument, X supports M, a private university described in section 509(a)(1). The trust instrument provides that Trustee has discretion regarding the timing and amount of distributions consistent with the Trustee's fiduciary duties. Representatives of Trustee and an officer of M have quarterly face to face meetings, at which they discuss M's projected needs for the university and ways in which M would like X to use its income and invest its assets. Additionally, Trustee communicates regularly with the officer of M regarding X's investments and plans for distributions from X. Trustee provides the officer of M with quarterly investment statements, the information required under paragraph (i)(2) of this section, and an annual accounting statement. Based on these facts, X meets the responsiveness test of this paragraph (i)(3).

Example (2). Y is an organization described in section 501(c)(3) and is organized as a trust under State law. The trustee of Y is a bank, Trustee. Y supports charities P, Q and R, each an organization described in section 509(a)(1). Y makes annual cash payments to P, Q and R. Once a year, Trustee sends to P, Q, and R the cash payment, the information required under paragraph (i)(2) of this section, and an accounting statement. Trustee has no other communication with P, Q or R. Y does not meet the responsiveness test of this paragraph (i)(3).

(v) *Exception for Pre-November 20, 1970 Organizations.* In the case of a supporting organization that was supporting or benefiting a supported organization before November 20, 1970, additional facts and circumstances, such as a historic and continuing relationship between the organizations, may be taken into account, in addition to the factors described in paragraph (i)(3)(ii) of this section, to establish compliance with the responsiveness test.

(4) *Integral part test—functionally integrated Type III supporting organization*—(i) *General rule.* A supporting organization meets the integral part test as a functionally integrated Type III supporting organization if it satisfies either paragraph (i)(4)(i)(A) or paragraph (i)(4)(i)(B) of this section.

(A) The supporting organization engages in activities:

(*1*) Substantially all of which directly further the exempt purposes of the supported organization(s) to which the supporting organization is responsive, by performing the functions of, or carrying out the purposes of, such supported organization(s); and

(*2*) That, but for the involvement of the supporting organization, would normally be engaged in by the supported organization(s).

(B) The supporting organization is the parent of each of its supported organizations. For purposes of the integral part test, a supporting organization is the parent of a supported organization if the supporting organization exercises a substantial degree of direction over the policies, programs, and activities of the supported organization and a majority of the officers, directors, or trustees of the supported organization is appointed or elected, directly or indirectly, by the governing body, members of the governing body, or officers (acting in their official capacity) of the supporting organization.

(ii) ''*Directly further.*'' Holding title to exempt-use property and managing exempt-use property are activities that directly further the exempt purposes of the supported organization within the meaning of paragraph (i)(4)(i)(A) of this section. Except as provided in paragraph (i)(4)(iii) of this section, fundraising, investing and managing non-exempt-use property, and making grants (whether to the supported organization or to third parties) are not activities that directly further the exempt purposes of the supported organization within the meaning of paragraph (i)(4)(i)(A) of this section.

(iii) *Governmental Entity Exception.* A supporting organization may treat the investment and management of non-exempt-use assets and the making of grants directly to a supported organization as activities that directly further the exempt purposes of a supported organization if:

(A) Such activities are conducted on behalf of a supported organization whose assets are subject to the appropriation process of a Federal, State, local or Indian Tribal government for purposes or programs unrelated to the exempt purposes of the supported organization;

(B) The supporting organization supports only one supported organization; and

(C) A substantial part of the supporting organization's total activities directly furthers the exempt purpose(s) of its supported organization and are activities other than fundraising, grantmaking, and investing and managing non-exempt-use assets.

(iv) *Examples.* The provisions of this paragraph (i)(4) may be illustrated by the following examples. In each *example,* the supporting organization meets the requirements of paragraphs (i)(2) and (i)(3) of this section.

Example 1. N, an organization described in section 501(c)(3), is the parent organization of a healthcare system consisting of two hospitals (Q and R) and an outpatient clinic (S), each of which is described in section 509(a)(1), and a taxable subsidiary (T). N is the sole member of each of Q, R, and S. Under the charter and bylaws of each of Q, R, and S, N appoints all members of the board of directors of each corporation. N engages in the overall coordination and supervision of the healthcare system's exempt subsidiary corporations Q, R, and S in approval of their budgets, strategic planning, marketing, resource allocation, securing tax-exempt bond financing, and community education. N also manages and invests assets that serve as endowments of Q, R and S. Based on these facts, N qualifies as a functionally integrated Type III supporting organization under paragraph (4)(i)(B) of this section.

Example 2. V, an organization described in section 501(c)(3), is organized as a supporting organization to L, a church described in section 509(a)(1). L transferred to V title to the buildings in which L conducts religious services, Bible study and community enrichment programs. Substantially all of V's activities consist of holding and managing these buildings. But for the activities of V, L would normally engage in these same activities. Based on these facts, V satisfies the activities and but for requirements of paragraph (4)(i)(A) of this section and therefore qualifies as a functionally integrated Type III supporting organization.

Example 3. O is a nonprofit publishing organization described in section 501(c)(3). It does all of the publishing and printing for the eight churches of a particular denomination located in a particular geographic region, each of which is described in section 509(a)(1). Control of O is vested in a five-man Board of Directors, which includes an official from one of the churches and four lay members of the congregations of that denomination. The officers of O maintain a close and continuing working relationship with each of the eight churches for whom it publishes and prints materials and as a result of such relationship, each of the eight

churches has a significant voice in the operations of O. O does no other printing or publishing. O publishes all of the churches' religious as well as secular tracts and materials. All of O's activities directly further the exempt purposes of supported organizations to which it is responsive. Additionally, but for the activities of O, the churches would normally publish these materials themselves. Based on these facts, O qualifies as a functionally integrated Type III supporting organization under paragraph (4)(i)(A) of this section.

Example 4. M, an organization described in section 501(c)(3), was created by B, an individual, to provide scholarships for students of a private secondary school, U, an organization described in section 509(a)(1). U establishes the scholarship criteria, publicizes the scholarship program, solicits and reviews applications, and selects the scholarship recipients. M invests its assets and disburses the funds for scholarships to the recipients selected by U. Based on these facts, M is not a functionally integrated Type III supporting organization.

Example 5. J, an organization described in section 501(c)(3), is a supporting organization to community foundation G, an organization described in section 509(a)(1). In addition to maintaining field-of-interest funds, sponsoring donor advised funds, and general grant-making activities, G also engages in activities to beautify and maintain local parks. J's activities consist of maintaining all of the local parks in the area of community foundation G by activities such as establishing and maintaining trails, planting trees and removing trash. But for the activities of J, G would normally engage in these efforts to beautify and maintain the local parks. Based on these facts, J qualifies as a functionally integrated Type III supporting organization under paragraph (4)(i)(A) of this section.

Example 6. W, an organization described in section 501(c)(3), is organized as a supporting organization to Z, a public university in State D described in section 509(a)(1). Z is the sole named supported organization in W's articles of incorporation. Under the laws of State D, assets under Z's control are subject to the appropriation process for any State D purpose by an action of the State D legislature. Z transfers the intellectual property developed by Z's science department to W for patenting and licensing, including making the property available to the public. The royalties generated by the licenses are shared among Z, the original researcher, and W. W invests and manages its share of the royalties and other income generated by the patenting and licensing of the intellectual property to build an endowment to support Z. W also conducts further research on scientific processes developed at Z and makes the results of this research available to the public. W's research activities make up a substantial part of W's total activities. But for the activities of W, Z would normally conduct the research engaged in by W and manage the royalties from the intellectual property generated at Z. W's activities of investing and managing its share of royalties and other income are not considered activities that directly further the exempt purposes of Z under paragraph (i)(4)(ii) of this section. However, because Z's assets are subject to the appropriation process of State D for purposes unrelated to Z's exempt purposes, Z is W's sole supported organization, and a substantial part of W's activities directly further Z's exempt purposes, W qualifies for the exception in paragraph (i)(4)(iii) of this section. Accordingly, based on these facts, W qualifies as a functionally integrated Type III supporting organization under paragraph (4)(i)(A) of this section.

Example 7. P, an alumni association described in section 501(c)(3), was formed to promote a spirit of loyalty among graduates of Y University, a public university in State E described in section 509(a)(1), and to effect united action in promoting the general welfare of Y. Y is the sole named supported organization in P's articles of incorporation. Under the laws of State E, Y's assets are subject to the appropriation process for any State E purpose. P manages an endowment created by gifts from the alumni. A special committee of Y's governing board meets with P and makes recommendations as to the allocation of P's program of gifts and scholarships to the university and its students. More than a substantial part of P's activities, however, consist of maintaining records of alumni and publishing a bulletin to keep alumni aware of the activities of the university. But for the activities of P, Y would normally engage in these same activities. P's endowment management activities are not considered activities that directly further the exempt purposes of Y under paragraph (i)(4)(ii) of this section. However, because Y's assets are subject to the appropriation process of State E for purposes unrelated to Y's exempt purposes, Y is P's sole supported organization, and a substantial part of P's activities directly further Y's exempt purposes, P qualifies for the exception in paragraph (i)(4)(iii) of this section. Accordingly, based on these facts, P qualifies as a functionally integrated Type III supporting organization under paragraph (4)(i)(A) of this section.

(5) *Integral part test—non-functionally integrated Type III supporting organization*—(i) A supporting organization meets the integral part test as a non-functionally integrated Type III supporting organization if it satisfies either:

(A) The distribution requirement of paragraph (i)(5)(ii) of this section and the attentiveness requirement of paragraph (i)(5)(iii) of this section; or

(B) The pre-1970 trust requirements of paragraph (i)(9) of this section.

(ii) *Distribution requirement.* (A) The supporting organization must distribute, with respect to each taxable year, to or for the use of one or more supported organizations, amounts equaling or exceeding the supporting organization's annual distributable amount for such year, as defined in paragraph (i)(5)(ii)(B) of this section, on or before the last day of such taxable year.

(B) *Annual distributable amount.* Except as provided in paragraphs (i)(5)(ii)(C) and (i)(5)(ii)(D) of this section, the annual distributable amount for a taxable year is:

(*1*) Five percent of the excess of the aggregate fair market value of all non-exempt-use assets (determined under paragraph (i)(8) of this section) over the acquisition indebtedness with respect to such non-exempt-use assets, determined under section 514(c)(1) without regard to the taxable year in which the indebtedness was incurred; increased by

(*2*) Amounts received or accrued as repayments of amounts which were taken into account by the organization to meet the distribution requirement imposed in paragraph (i)(5)(ii)(A) of this section for any taxable year; increased by

(*3*) Amounts received or accrued from the sale or other disposition of property to the extent that the acquisition of such property was taken into account by the organization to meet the distribution requirement imposed in paragraph (i)(5)(ii)(A) of this section for any taxable year; and reduced by

(*4*) The amount of taxes imposed on the supporting organization for such taxable year under subtitle A of the Code.

(C) *First taxable year of existence.* The annual distributable amount for the first taxable year an organization is treated as a non-functionally integrated Type III supporting organization is zero.

(D) *Emergency temporary reduction.* The Secretary may provide by publication in the Internal Revenue Bulletin (*see* § 601.601(d)(2)(ii)(*b*) of this chapter) for a temporary reduction in the annual distributable amount in the case of a disaster or emergency.

(E) *Reasonable cause exception.* An organization that fails to meet the distribution requirement of paragraph (i)(5)(ii) of this section will not be classified as a private foundation in the taxable year for which it fails to meet such distribution requirement, if the organization establishes to the satisfaction of the Secretary that:

(*1*) The failure was due solely to an incorrect valuation of assets, a ministerial error, or unforeseen events or circumstances that are beyond the organization's control,

(*2*) The failure was due to reasonable cause and not to willful neglect,

and

(*3*) The distribution requirement is met within 180 days after the date the incorrect valuation or ministerial error was or should have been discovered, or 180 days after the organization is first able to make its required payout

notwithstanding the unforeseen event or circumstances.

(iii) *Attentiveness requirement.* (A) *General rule.* A non-functionally integrated Type III supporting organization must distribute one-third or more of its annual distributable amount to one or more supported organizations that are attentive to the operations of the supporting organization and to which the supporting organization is responsive under paragraph (i)(3) of this section.

(B) Except as provided in paragraph (i)(5)(iii)(C) of this section, a supported organization is attentive to the operations of the supporting organization if the supporting organization distributes annually to such supported organization an amount of support that represents a sufficient part of the supported organization's total support. A supporting organization must meet the requirements of paragraphs (i)(5)(iii)(B)(*1*), (i)(5)(iii)(B)(*2*), or (i)(5)(iii)(B)(*3*) of this section to demonstrate that it is attentive. If a supporting organization makes payments to, or for the use of, a particular department or school of a university, hospital or church, the total support of the department or school shall be substituted for the total support of the beneficiary organization.

(*1*) The supporting organization distributes annually to the supported organization an amount that is 10 percent or more of the supported organization's total support.

(*2*) The amount of support received from the supporting organization is necessary to avoid the interruption of the carrying on of a particular function or activity. The support is necessary if the supporting organization or the supported organization earmarks the support for a particular program or activity, even if such program or activity is not the supported organization's primary program or activity so long as such program or activity is a substantial one.

(*3*) Based on the consideration of all pertinent factors, including the number of supported organizations, the length and nature of the relationship between the supported organization and supporting organization and the purpose to which the funds are put, the amount of support is a sufficient part of a supported organization's total support. Normally the attentiveness of a supported organization is motivated by reason of the amounts received from the supporting organization. Thus, the more substantial the amount involved, in terms of a percentage of the supported organization's total support, the greater the likelihood that the required degree of attentiveness will be present. However, in determining whether the amount received from the supporting organization is sufficient to ensure the attentiveness of the supported organization to the operations of the supporting organization (including attentiveness to the nature and yield of such supporting organization's investments), evidence of actual attentiveness by the supported organization is of almost equal importance. A supported organization is not considered to be attentive solely because it has enforceable rights against the supporting organization under State law.

(C) *Distribution to donor-advised fund does not establish attentiveness.* Notwithstanding paragraphs (i)(5)(iii)(A) and (i)(5)(iii)(B) of this section, a supported organization will not be considered attentive to the operations of a supporting organization with respect to any amount received from the supporting organization that is held by the supported organization in a donor advised fund described in section 4966(d)(2).

(iv) Paragraph (5)(iii)(B)(*2*) of this section is illustrated by *examples 1* and *2* and paragraph(5)(iii)(B) of this section is illustrated by *examples 3* and *4:*

Example 1. K, an organization described in section 501(c)(3), annually pays over an amount equal to five percent of its assets to L, a museum described in section 509(a)(2). K meets the responsiveness test described in paragraph (i)(3) of this section with respect to L. In recent years, L has earmarked the income received from K to underwrite the cost of carrying on a chamber music series consisting of 12 performances a year that are performed for the general public free of charge at its premises. The chamber music series is not L's primary activity. L could not continue the performances without K's support. Based on these facts, K meets the requirements of paragraph (i)(5)(iii)(B)(*2*) of this section.

Example 2. M, an organization described in section 501(c)(3), pays annually an amount equal to five percent of its assets to the Law School of N University, an organization described in section 509(a)(1). M meets the responsiveness test described in paragraph (i)(3) of this section with respect to N. M has earmarked the income paid over to N's Law School to endow a chair in International Law. Without M's continued support, N could not continue to maintain this chair. Based on these facts, M meets the requirements of paragraph (i)(5)(iii)(B)(*2*) of this section.

Example 3. R is a charitable trust created under the will of B, who died in 1969. R's purpose is to hold assets as an endowment for S, a hospital, T, a university, and U, a national medical research organization (all organizations described in section 509(a)(1) and specifically named in the trust instrument), and to distribute all of the income each year in equal shares among the three named beneficiaries. Each year, R pays an amount equal to five percent of its assets to each of S, T, and U. Such payments are less than one percent of each organization's total support. Based on these facts, R does not meet the attentiveness requirement of paragraph (i)(5)(iii)(B). However, because B died prior to November 20, 1970, R could, upon meeting all of the requirements of paragraph (i)(9) of this section, be considered as meeting the requirements of paragraph (i)(5)(i)(B) of this section.

Example 4. O is an organization described in section 501(c)(3). O is organized to support five private universities, V, W, X, Y and Z, each of which is described in section 509(a)(1). O meets the responsiveness test under paragraph (i)(3) of this section only as to V. Each year, O distributes five percent of the fair market value of its non-exempt-use assets in equal amounts to the five universities. O distributes annually more than 10 percent of the total annual support of V and W. Based on these facts O does not meet the requirements of paragraph (i)(5)(iii) of this section. Although both V and W are attentive to the operations of O under paragraph (i)(5)(iii)(B)(*1*) of this section, O is only responsive to V. Accordingly, O distributes only one-fifth (*i.e.,* less than the required one-third) of its annual distributable amount to supported organization(s) that are both attentive to O and to which O is also responsive under paragraph (i)(3) of this section.

(6) *Distributions.* For purposes of this paragraph (i)(6), the amount of a distribution made to a supported organization is the fair market value of such property as of the date such distribution is made. The amount of a distribution will be determined solely on the cash receipts and disbursements method of accounting described in section 446(c)(1). Distributions that count toward the distribution requirement imposed in paragraph (i)(5)(ii)(A) of this section shall include:

(i) Any amount paid to a supported organization to accomplish its exempt purposes,

(ii) Any amount paid to acquire an asset used (or held for use) to carry out the exempt purposes of the supported organization(s), and

(iii) Any amount expended by the supporting organization for reasonable and necessary administrative expenses.

(7) *Carryover of excess amounts*—(i) *In general.* If with respect to any taxable year, an excess amount, as defined in paragraph (i)(7)(ii) of this section, is created, such excess amount may be used to reduce the annual distributable amount in any of the five taxable years immediately following the taxable year in which the excess amount is created (the ''carryover period''). An excess amount created in a taxable year cannot be carried over beyond the succeeding five taxable years. With respect to any

taxable year to which an excess amount is carried over, in determining whether an excess amount is created in that taxable year, the annual distributable amount is reduced first to the extent of any excess amounts carried over and then to the extent of distributions made in that taxable year.

(ii) *Excess amount.* An excess amount is created for any taxable year beginning after the effective date of these regulations if the total distributions made by a supporting organization to its supported organization(s) for such taxable year exceeds the supporting organization's annual distributable amount for such taxable year, as defined in paragraph (i)(5)(ii)(B) of this section, determined without regard to this paragraph.

(8) *Valuation of assets*—(i) *General rules.* (A) For purposes of determining the organization's annual distributable amount, as defined in paragraph (i)(5)(ii)(B) of this section, the determination of the fair market value of the non-exempt-use assets shall be made in the year preceding the year of the required distribution under paragraph (i)(5)(ii)(A) of this section. The aggregate fair market value of all non-exempt-use assets of a supporting organization is the sum of:

(*1*) The average of the fair market values on a monthly basis of securities for which market quotations are readily available (within the meaning of paragraph (i)(8)(iii)(A)(*1*) of this section);

(*2*) The average of the supporting organization's cash balances on a monthly basis (less the same amount of cash balances excluded under paragraph (i)(8)(i)(C)(*2*)(i*v*) of this section) from the computation of the annual distributable amount); and

(*3*) The fair market value of all other assets (except those assets described in paragraph (i)(8)(i)(B) or paragraph (i)(8)(i)(C) of this section) for the period of time during the taxable year for which such assets are held by the supporting organization.

(B) *Certain assets excluded.* For purposes of this paragraph, the non-exempt-use assets taken into account in determining the annual distributable amount described in paragraph (i)(5)(ii)(B) of this section shall not include the following:

(*1*) Any future interest (such as a vested or contingent remainder, whether legal or equitable) of a supporting organization in the income or corpus of any real or personal property, other than a future interest created by the supporting organization after August 17, 2006, until all intervening interests in, and rights to the actual possession or enjoyment of, such property have expired, or, although not actually reduced to the supporting organization's possession, until such future interest has been constructively received by the supporting organization, as where it has been credited to the supporting organization's account, set apart for the supporting organization, or otherwise made available so that the supporting organization may acquire it at any time or could have acquired it if notice of intention to acquire had been given;

(*2*) The assets of an estate until such time as such assets are distributed to the supporting organization or, due to a prolonged period of administration, such estate is considered terminated for Federal income tax purposes by operation of Treas. Reg. § 1.641(b)–3(a);

(*3*) Any present interest of a supporting organization in any trust created and funded by another person;

(*4*) Any pledge to the supporting organization of money or property (whether or not the pledge may be legally enforced); and

(*5*) Any assets used (or held for use) to carry out the exempt purposes of the supported organization(s).

(C) *Assets used (or held for use) to carry out the exempt purposes of the supported organization(s)*—(*1*) *In general.* For purposes of paragraph (i)(8)(i)(B)(*5*) of this section, an asset is ''used (or held for use) to carry out the exempt purposes of the supported organization(s)'' only if the asset is actually used by the supporting organization in activities that carry out the exempt purposes of its supported organization(s), or if the supporting organization owns the asset and establishes to the satisfaction of the Commissioner that its immediate use for such exempt purpose is not practical (based on the facts and circumstances of the particular case) and that definite plans exist to commence such use on behalf of its supported organization(s) within a reasonable period of time. Consequently, assets that are held for the production of income or for investment (for example, stocks, bonds, interest-bearing notes, endowment funds, or, generally, leased real estate) are not being used (or held for use) to carry out the exempt purposes of the supported organization(s), even though the income from such assets is used to carry out such exempt purposes. Whether an asset is held for the production of income or for investment rather than used (or held for use) by the supporting organization to carry out the exempt purposes of the supported organization(s) is a question of fact. For example, an office building used for the purpose of providing offices for employees engaged in the management of endowment funds is not being used (or held for use) by the supporting organization to carry out the exempt purposes of the supported organization(s). However, where property is used both to carry out the exempt purposes of the supported organization(s) and for other purposes, if the former use represents 95 percent or more of the total use, such property shall be considered to be used exclusively to carry out an exempt purpose of the supported organization(s). If the use of such property to carry out the exempt purposes of the supported organization(s) represents less than 95 percent of the total use, reasonable allocation between such use and other use must be made for purposes of this paragraph. Property acquired by the supporting organization to be used to carry out the exempt purposes of the supported organization(s) may be considered as used (or held for use) to carry out such exempt purposes even though the property, in whole or in part, is leased for a limited period of time during which arrangements are made for its conversion to the use for which it was acquired, provided such income-producing use of the property does not exceed a reasonable period of time. Generally, one year shall be deemed to be a reasonable period of time for purposes of the immediately preceding sentence. Where the income-producing use continues beyond a reasonable period of time, the property shall not be deemed to be used by the supporting organization to carry out the exempt purposes of the supported organization(s), but, instead, as of the time the income-producing use becomes unreasonable, such property shall be treated as disposed of within the meaning of paragraph (i)(5)(ii)(B)(*3*) of this section to the extent that the acquisition of the property was taken into account by the organization to meet the distribution requirement imposed in paragraph (i)(5)(ii)(A) of this section for any taxable year. If, subsequently, the property is used by the supporting organization to carry out the exempt purposes of the supported organization(s), a distribution to its supported organization(s) in the amount of its then fair market value, determined in accordance with the rules contained in this paragraph (i)(8), shall be deemed to have been made as of the time such exempt purpose use begins.

(*2*) *Illustrations.* Examples of assets that are ''used (or held for use) to carry out the exempt purposes of the

supported organization(s)'' include, but are not limited to, the following:

(*i*) Administrative assets, such as office equipment and supplies that are used by employees or consultants of the supporting organization, to the extent such assets are devoted to and used directly in the administration of the supporting organization's activities that carry out the exempt purposes of the supported organization(s).

(*ii*) Real estate or the portion of a building used by the supporting organization directly in its activities to carry out the exempt purposes of the supported organization(s).

(*iii*) Physical facilities used in the supporting organization's activities to carry out the exempt purposes of the supported organization(s), such as paintings or other works of art owned by the supporting organization that are on public display, fixtures and equipment in classrooms, and research facilities and related equipment, which under the facts and circumstances serve a useful purpose in the conduct of such exempt purpose activities.

(*iv*) The reasonable cash balances necessary to cover current administrative expenses and other normal and current disbursements directly connected to the supporting organization's activities to carry out the exempt purposes of the supported organization(s). The reasonable necessary cash balances will generally be deemed to be an amount, computed on an annual basis, equal to one and one-half percent of the fair market value of all of the supporting organization's assets, other than assets used or held for use to carry out the exempt purposes of the supported organization(s), without regard to this paragraph (i)(8)(i)(C)(*2*)(*iv*). However, if the Commissioner is satisfied that under the facts and circumstances an amount in addition to such one and one-half percent is necessary for payment of such expenses and disbursements, then such additional amount may also be excluded from the amount of assets described in paragraph (i)(5)(ii)(B) of this section. All remaining cash balances, including amounts necessary to pay any tax imposed by section 511 or section 4943, are to be included in the assets described in paragraph (i)(5)(ii)(B) of this section.

(*v*) Any property leased by the supporting organization in carrying out the exempt purposes of its supported organization(s) at no cost (or at a nominal rent) to the lessee, such as the leasing of renovated apartments to low-income tenants at a low rental as part of the lessor-supporting organization's program for rehabilitating a blighted portion of the community.

(ii) *Valuation of assets—timing.* For purposes of determining the annual distributable amount for a taxable year, the supporting organization's assets are to be valued over the preceding taxable year.

(iii) *Valuation of assets*—(A) *Certain securities.* (*1*) For purposes of this paragraph, a supporting organization may use any reasonable method to determine the fair market value on a monthly basis of securities for which market quotations are readily available, as long as such method is consistently used.

(*2*) For purposes of this paragraph, market quotations are readily available if a security is:

(*i*) Listed on the New York Stock Exchange, the American Stock Exchange, or any city or regional exchange in which quotations appear on a daily basis, including foreign securities listed on a recognized foreign national or regional exchange;

(*ii*) Regularly traded in the national or regional over-the-counter market, for which published quotations are available; or

(*iii*) Locally traded, for which quotations can readily be obtained from established brokerage firms.

(*3*) For purposes of this paragraph, if the supporting organization can show that the value of securities determined on the basis of market quotations as provided by paragraph (i)(8)(iii)(A)(*2*) of this section, does not reflect the fair market value thereof because:

(*i*) The securities constitute a block of securities so large in relation to the volume of actual sales on the existing market that it could not be liquidated in a reasonable time without depressing the market;

(*ii*) The securities are securities in a closely held corporation and sales are few or of a sporadic nature; and/or

(*iii*) The sale of the securities would result in a forced or distress sale because the securities could not be offered to the public for sale without first being registered under the Securities Act of 1933 or because of other factors, then the price at which the securities could be sold as such outside the usual market, as through an underwriter, may be a more accurate indication of value than market quotations. On the other hand, if the securities to be valued represent a controlling interest, either actual or effective, in a going business, the price at which other lots change hands may have little relation to the true value of the securities. No decrease in the fair market value of any given class of securities determined on the basis of market quotations as provided by paragraph (i)(8)(iii)(A)(*2*) of this section shall be allowed except as authorized by this paragraph, and no such decrease shall in the aggregate exceed 10 percent of the fair market value of such class of securities so determined on the basis of market quotations and without regard to this paragraph.

(*4*) In the case of securities described in paragraph (i)(8)(iii)(A)(*2*) of this section, that are held in trust for, or on behalf of, a supporting organization by a bank or other financial institution that values such securities periodically by use of a computer, a supporting organization may determine the correct value of such securities by use of such computer pricing system, provided the Commissioner has accepted such computer pricing system as a valid method for valuing securities for Federal estate tax purposes.

(B) *Cash.* In order to determine the amount of a supporting organization's cash balances, the supporting organization shall value its cash on a monthly basis by averaging the amount of cash on hand as of the first day of each month and as of the last day of each month.

(C) *Common trust funds.* If a supporting organization owns a participating interest in a common trust fund (as defined in section 584) established and administered under a plan providing for the periodic valuation of participating interests during the fund's taxable year and the reporting of such valuations to participants, the value of the supporting organization's interest in the common trust fund based upon the average of the valuations reported to the supporting organization during its taxable year will ordinarily constitute an acceptable method of valuation.

(D) *Other assets.* (*1*) Except as otherwise provided in paragraph (i)(8)(iii)(D)(*2*) of this section, the fair market value of assets other than those described in paragraphs (i)(8)(iii)(A) through (i)(8)(iii)(C) of this section, shall be determined annually. Thus, the fair market value of securities other than those described in paragraph (i)(8)(iii)(A) of this section shall be determined in accordance with this paragraph (i)(8)(iii)(D)(*1*). If, however, a supporting organization owns voting stock of an issuer of unlisted securities and has, or together with disqualified persons or another supporting organization has, effective control of the issuer (within the meaning of § 53.4943–3(b)(3)(ii)), then to the extent that the issuer's assets consist of shares of listed securities issues, such assets shall be

valued monthly on the basis of market quotations or in accordance with section 4942(e)(2)(B), if applicable. Thus, for example, if a supporting organization and a disqualified person together own all of the unlisted voting stock of a holding company that in turn holds a portfolio of securities of issues that are listed on the New York Stock Exchange, in determining the net worth of the holding company, the underlying portfolio securities are to be valued monthly by reference to market quotations for their issues unless a decrease in such value is authorized in accordance with section 4942(e)(2)(B). Such determination may be made by employees of the supporting organization or by any other person without regard to whether such person is a disqualified person with respect to the supporting organization. A valuation made pursuant to the provisions of this paragraph, if accepted by the Commissioner, shall be valid only for the taxable year for which it is made. A new valuation made in accordance with these provisions is required for the succeeding taxable year.

(*2*) If the requirements of this paragraph are met, the fair market value of any interest in real property, including any improvements thereon, may be determined on a five-year basis. Such value must be determined by means of a certified, independent appraisal made in writing by a qualified person who is neither a disqualified person with respect to, nor an employee of, the supporting organization. The appraisal is certified only if it contains a statement at the end thereof to the effect that, in the opinion of the appraiser, the values placed on the assets appraised were determined in accordance with valuation principles regularly employed in making appraisals of such property using all reasonable valuation methods. The supporting organization shall retain a copy of the independent appraisal for its records. If a valuation made pursuant to the provisions of this paragraph in fact falls within the range of reasonable values for the appraised property, such valuation may be used by the supporting organization for the taxable year for which the valuation is made and for each of the succeeding four taxable years. Any valuation made pursuant to the provisions of this paragraph may be replaced during the five-year period by a subsequent five-year valuation made in accordance with the rules set forth in this paragraph (i)(8)(iii)(D)(*2*), or with an annual valuation made in accordance with paragraph (i)(8)(iii)(D)(*1*) of this section, and the most recent such valuation of such assets shall be used in computing the supporting organization's annual distributable amount. A valuation made in accordance with this paragraph must be made no later than the last day of the first taxable year for which such valuation is applicable. A valuation, if properly made in accordance with the rules set forth in this paragraph, will not be disturbed by the Commissioner during the five-year period for which it applies even if the actual fair market value of such property changes during such period.

(*3*) For purposes of this paragraph (i)(8)(iii)(D)(*3*), commonly accepted methods of valuation must be used in making an appraisal. Valuations made in accordance with the principles stated in the regulations under section 2031 constitute acceptable methods of valuation. The term ''appraisal,'' as used in this paragraph (i)(8)(iii)(D)(*3*), means a determination of fair market value and is not to be construed in a technical sense peculiar to particular property or interests therein, such as, for example, mineral interests in real property.

(E) *Definition of ''securities''.* For purposes of this paragraph (i)(8)(iii)(E), the term ''securities'' includes, but is not limited to, common and preferred stocks, bonds, and mutual fund shares.

(F) *Valuation date.* (*1*) In the case of an asset that is required to be valued on an annual basis as provided in paragraph (i)(8)(iii)(D)(*1*) of this section, such asset may be valued as of any day in the supporting organization's taxable year to which such valuation applies, provided the supporting organization follows a consistent practice of valuing such asset as of such date in all taxable years.

(*2*) A valuation described in paragraph (i)(8)(iii)(D)(*2*) of this section may be made as of any day in the first taxable year of the supporting organization to which such valuation is to be applied.

(G) *Assets held for less than a taxable year.* For purposes of this paragraph (i)(8)(iii)(G), any asset described in paragraph (i)(8)(i)(A) of this section that is held by a supporting organization for only part of a taxable year shall be taken into account for purposes of determining the supporting organization's annual distributable amount for such taxable year by multiplying the fair market value of such asset (as determined pursuant to paragraph (i)(8) of this section) by a fraction, the numerator of which is the number of days in such taxable year that the supporting organization held such asset and the denominator of which is the number of days in such taxable year.

(9) *Exception to integral part test for certain trusts.* A trust (whether or not exempt from taxation under section 501(a)) that on November 20, 1970, met and continues to meet the requirements of paragraphs (i)(9)(i) through (i)(9)(v) of this section, shall be treated as meeting the requirements of the integral part test (whether or not it meets the requirements of paragraph (i)(4) or paragraph (i)(5) of this section) if for taxable years beginning after October 16, 1972, the trustee of such trust makes annual written reports to all of the beneficiary supported organizations with respect to such trust setting forth a description of the assets of the trust, including a detailed list of the assets and the income produced by such assets. A trust organization that meets the requirements of this paragraph may request a ruling that it is described in section 509(a)(3) in such manner as the Commissioner may prescribe.

(i) All the unexpired interests in the trust are devoted to one or more purposes described in section 170(c)(1) or (2)(B) and a deduction was allowed with respect to such interests under sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), 2522, or corresponding provisions of prior law (or would have been allowed such a deduction if the trust had not been created before 1913);

(ii) The trust was created prior to November 20, 1970, and did not receive any grant, contribution, bequest or other transfer on or after such date. For purpose of this paragraph (i)(9)(ii), a split-interest trust described in section 4947(a)(2) that was created prior to November 20, 1970, was irrevocable on such date, and that becomes a charitable trust described in section 4947(a)(1) after such date shall be treated as having been created prior to such date;

(iii) The trust is required by its governing instrument to distribute all of its net income currently to a designated beneficiary supported organization. Where more than one beneficiary supported organization is designated in the governing instrument of a trust, all of the net income must be distributable and must be distributed currently to each of such beneficiary organizations in fixed shares pursuant to such governing instrument. For purposes of this paragraph (i)(9)(iii), the governing instrument of a charitable trust shall be treated as requiring distribution to a designated beneficiary organization where the trust instrument describes the charitable purpose of the trust so completely that such description can apply to only one existing beneficiary organization and is of sufficient particularity as to vest in such organization rights against the trust

enforceable in a court possessing equitable powers;

(iv) The trustee of the trust does not have discretion to vary either the beneficiaries or the amounts payable to the beneficiaries. For purposes of this paragraph (i)(9)(iv), a trustee shall not be treated as having such discretion where the trustee has discretion to make payments of principal to the single section 509(a)(1) or (2) organization that is currently entitled to receive all of the trust's income or where the trust instrument provides that the trustee may cease making income payments to a particular charitable beneficiary in the event of certain specific occurrences, such as the loss of exemption under section 501(c)(3) or classification under section 509(a)(1) or (2) by the beneficiary or the failure of the beneficiary to carry out its charitable purpose properly; and

(v) None of the trustees would be disqualified persons within the meaning of section 4946(a) (other than foundation managers under section 4946(a)(1)(B)) with respect to the trust if such trust were treated as a private foundation.

(10) *Foreign supported organizations.* A supporting organization is not operated in connection with one or more supported organizations if it supports any supported organization organized outside of the United States.

(11) *Transition rules*—(i) A Type III supporting organization in existence on the effective date of these regulations that met and continues to meet the requirements of Treas. Reg. § 1.509(a)–4(i)(3)(ii), as in effect prior to the date these regulations are published as final or temporary regulations, will be treated as meeting the requirements of paragraph (i)(4)(i) of this section until the first day of the organization's first taxable year beginning after the date these regulations are published as final or temporary regulations.

(ii) A Type III supporting organization in existence on the effective date of these regulations that met and continues to meet the requirements of Treas. Reg. § 1.509(a)–4(i)(3)(iii), as in effect prior to the date these regulations are published as final or temporary regulations, will be treated as meeting the requirements of paragraph (i)(5)(i) of this section until the first day of its second taxable year beginning after the effective date of these regulations. Beginning in the first taxable year beginning after the effective date of these regulations, such organizations must value their assets according to paragraph (i)(8) of this section. Beginning in the second taxable year beginning after the effective date of these regulations (and in all succeeding taxable years), these organizations must meet all of the requirements of paragraph (i)(5)(i) of this section.

(iii) For the first taxable year after the effective date of these regulations, the annual distributable amount for Type III supporting organizations that are not functionally integrated is zero.

(12) *Effective/applicability date.* These regulations are effective on the date of publication of the Treasury decision adopting these rules as final or temporary regulations.

* * * * *

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 3. The authority citation for part 53 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 4. In § 53.4943–11, section heading is revised and paragraphs (f) and (g) are added to read as follows:

§ 53.4943–11 Effective/Applicability date.

* * * * *

(f) Special transitional rule for private foundations that qualified as Type III supporting organizations before August 17, 2006. The present holdings of a private foundation that qualified as a Type III supporting organization under section 509(a)(3) immediately before August 17, 2006, and that was reclassified as a private foundation under section 509(a) on or after August 17, 2006, solely as a result of the rules enacted by section 1241 of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780), will be determined using the same rules that apply to Type III supporting organizations under section 4943(f)(7).

(g) Special transitional rule for Type III supporting organizations created as trusts before November 20, 1970. A trust that qualifies as a Type III supporting organization under section 509(a)(3) and meets the requirements of Treas. Reg. § 1.509(a)–4(i)(9) will be treated as a ''functionally integrated Type III supporting organization'' for purposes of section 4943(f)(3)(A).

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 40, 41, and 45

[Docket No. TTB–2009–0002; Notice No. 99; Re: T.D. TTB–81, T.D. TTB–78, Notice No. 95]

RIN 1513–AB75

Extension of Package Use-Up Rule for Roll-Your-Own Tobacco and Pipe Tobacco (2009R–368P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; cross-reference to temporary rule.

SUMMARY: Elsewhere in this issue of the **Federal Register**, the Alcohol and Tobacco Tax and Trade Bureau is issuing a temporary rule to extend the use-up period and delay the application of the new pipe tobacco and roll-your-own tobacco classification rule adopted on June 22, 2009, in response to certain changes made to the Internal Revenue Code of 1986 by the Children's Health Insurance Program Reauthorization Act of 2009. That temporary rule also corrects two minor errors in the previously published regulatory texts. The text of the regulations in the temporary rule published in the Rules and Regulations section of this issue of the **Federal Register** serves as the text of the proposed regulations.

DATES: Comments must be received on or before November 23, 2009.

ADDRESSES: You may send comments on this notice to one of the following addresses:

- *http://www.regulations.gov:* Use the comment form for this notice on the Federal e-rulemaking portal, Regulations.gov, to submit comments via the Internet;
- *Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.
- *Hand Delivery/Courier in Lieu of Mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments we receive about this proposal within Docket No. TTB–2009–0002 at *http://www.regulations.gov.* A direct link to this docket is posted on

the TTB Web site at *http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml* under Notice No. 99. You also may view copies of this notice, all supporting materials, and any comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Amy Greenberg, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau (202–453–2099).

SUPPLEMENTARY INFORMATION:

Background

On June 22, 2009, the Alcohol and Tobacco Tax and Trade Bureau (TTB) published a temporary rule in the **Federal Register** (T.D. TTB–78, 74 FR 29401) to implement certain changes made to the Internal Revenue Code of 1986 by the Children's Health Insurance Program Reauthorization Act of 2009 (the Act). The regulatory changes made by the temporary rule went into effect on June 22, 2009. The temporary rule included a new classification rule reflecting the expansion of the statutory definition of roll-your-own tobacco to include cigar wrapper and filler. The temporary rule also outlined new notice requirements for the packaging and labeling of pipe tobacco and roll-your-own tobacco to distinguish these two products from each other for tax purposes. As such, the temporary rule included two use-up rules allowing manufacturers and importers of pipe tobacco and roll-your-own tobacco to use their existing packages until August 1, 2009.

In the June 22, 2009, issue of the **Federal Register**, TTB also published a notice of proposed rulemaking, Notice No. 95 (74 FR 29433), inviting comments on the temporary regulations contained in T.D. TTB–78, with comments due on or before August 21, 2009. In response to Notice No. 95, we received two comments raising concerns regarding the pipe tobacco classification and notice provisions of T.D. TTB–78, which we believe warrant immediate consideration. Both commenters requested a delay in the implementation of the pipe tobacco classification and notice-related requirements, asserting that the use-up periods in the temporary regulations (that is, to August 1, 2009) gave insufficient time for industry members to comply with the new requirements.

New Temporary Rule and Notice of Proposed Rulemaking

After carefully considering these two comments, TTB believes it should delay the application of the new classification rule regarding pipe tobacco and roll-your-own tobacco, and extend the two use-up rules for existing packaging. As a result, we are publishing a new temporary rule, T.D. TTB–81, in the Rules and Regulations section of this issue of the **Federal Register**. These revised temporary regulations involve amendments to parts 40, 41, and 45 of the TTB regulations (27 CFR parts 40, 41, and 45). The text of the revised temporary regulations serves as the text of these proposed regulations, and the preamble to the revised temporary regulations explains these proposed regulations in detail. The new temporary rule also corrects two minor errors in the previously published regulatory texts.

Public Participation

Comments Invited

We invite comments from interested members of the public on this proposed rulemaking.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form linked to this notice in Docket No. TTB–2009–0002 on ''Regulations.gov,'' the Federal e-rulemaking portal, at *http://www.regulations.gov.* A link to the docket is available under Notice No. 99 on the TTB Web site at *http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml.* Supplemental files may be attached to comments submitted via Regulations.gov. For information on how to use Regulations.gov, click on the site's Help or FAQ tabs.
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200–E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 99 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. We do not acknowledge receipt of comments, and we consider all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via Regulations.gov, please include the entity's name in the ''Organization'' blank of the comment form. If you comment via postal mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or that is inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, we will post, and the public may view, copies of this notice, the related temporary rule, selected supporting materials, and any electronic or mailed comments we receive about this proposal. A direct link to the Regulations.gov docket containing this notice and the posted comments received on it is available on the TTB Web site at *http://www.ttb.gov/tobacco/tobacco-rulemaking.shtml* under Notice No. 99. You may also reach the docket containing this notice and the posted comments received on it through the Regulations.gov search page at *http://www.regulations.gov.*

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. We may omit voluminous attachments or material that we consider unsuitable for posting.

You and other members of the public may view copies of this notice, the related temporary rule, other supporting materials, and any electronic or mailed comments we receive about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5 x 11-inch page. Contact our information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Order 12866

Since the regulatory text proposed in this notice of proposed rulemaking is identical to that contained in the companion temporary rule published elsewhere in this issue of the **Federal Register**, the analyses contained in the preamble of the temporary rule concerning the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12866 also apply to this proposed rule.

Drafting Information

Michael Hoover of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects

27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 41

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

27 CFR Part 45

Administrative practice and procedure, Authority delegations (Government agencies), Cigars and cigarettes, Excise taxes, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Tobacco

Proposed Amendments to the Regulations

For the reasons discussed in the preamble, TTB proposes to amend 27 CFR, chapter I, parts 40, 41, and 45 as follows:

PART 40—MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

1. The authority citation for part 40 is revised to read as follows:

Authority: 26 U.S.C. 5142, 5143, 5146, 5701–5705, 5711–5713, 5721–5723, 5731, 5741, 5751, 5753, 5761–5763, 6061, 6065, 6109, 6151, 6301, 6302, 6311, 6313, 6402, 6404, 6423, 6676, 6806, 7011, 7212, 7325, 7342, 7502, 7503, 7606, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

2. [The proposed amendatory instructions and the proposed amended regulatory text for part 40 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

PART 41—IMPORTATION OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

3. The authority citation for part 41 is revised to read as follows:

Authority: 26 U.S.C. 5701–5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6302, 6313, 6402, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

4. [The proposed amendatory instructions and the proposed amended regulatory text for part 41 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

PART 45—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

5. The authority citation for part 45 is revised to read as follows:

Authority: 26 U.S.C. 5702–5705, 5723, 5741, 5751, 5762, 5763, 6313, 7212, 7342, 7606, 7805; 44 U.S.C. 3504(h).

6. [The proposed amendatory instructions and the proposed amended regulatory text for part 45 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

Signed: August 23, 2009.

John J. Manfreda,

Administrator.

Approved: September 4, 2009.

Timothy E. Skud,

Deputy Assistant Secretary. (Tax, Trade, and Tariff Policy).

[FR Doc. E9–23173 Filed 9–23–09; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AM74

Definition of Service in the Republic of Vietnam

AGENCY: Department of Veterans Affairs.

ACTION: Withdrawal of proposed rule.

SUMMARY: In a document published in the **Federal Register** on April 16, 2008, the Department of Veterans Affairs (VA) proposed to amend its adjudication regulations regarding the definition of ''service in the Republic of Vietnam.'' This document withdraws that proposed rule.

DATES: The proposed rule published at 73 FR 20566 on April 16, 2008, is withdrawn as of *September 24, 2009.*

FOR FURTHER INFORMATION CONTACT: Nancy Copeland, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–9685. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This rulemaking was initiated to respond to a decision rendered by the U. S. Court of Appeals for Veterans Claims (CAVC) in *Haas* v. *Nicholson,* 20 Vet. App. 257 (2006). While the comment period for the proposed rule was pending, the United States Court of Appeals for the Federal Circuit (Federal Circuit) decided *Haas* v. *Peake,* 525 F.3d 1168 (Fed. Cir. 2008). The Federal Circuit reversed and remanded the CAVC decision. The Federal Circuit found that VA's requirement that a claimant had been present within the land borders of Vietnam at some point in the course of his/her duty constitutes a permissible interpretation of 38 U.S.C. 1116, and affirmed that the language used in its implementing regulation, 38 CFR 3.307(a)(6)(iii), may be interpreted as stating such an interpretation. A petition for a writ of certiorari by the U.S. Supreme Court was denied. *Haas* v. *Peake,* cert. denied, 129 S.Ct. 173 No. 08–525, 2009 WL 129302 (U.S. Jan. 21, 2009). There is no longer a need to revise § 3.307(a)(6)(iii), or the regulations that use identical language to define service in the Republic of Vietnam (38 CFR 3.814 and 3.815). Thus, VA is withdrawing the proposed rule.

Approved: August 26, 2009.

John R. Gingrich,

Chief of Staff, Department of Veterans Affairs.

[FR Doc. E9–23021 Filed 9–23–09; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 261, 262, 264, 265, and 270

[FRL–8961–2]

RIN 2090–AA28

New Jersey Gold Track Program Under Project XL

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: withdrawal.

SUMMARY: The Environmental Protection Agency (EPA) is withdrawing a proposed rule published on April 16, 2002, which would have modified the regulations under the Resource Conservation and Recovery Act (RCRA) and the Clean Air Act (CAA) to enable the implementation of the New Jersey Department of Environmental Protection (NJDEP) Gold Track Program that was developed under EPA's Project eXcellence in Leadership (Project XL) program. Project XL was a national pilot program that allowed state and local governments, businesses and federal facilities to develop with EPA more cost-effective ways of achieving environmental and public health protection. In exchange, EPA provided regulatory, policy or procedural flexibilities to conduct the pilot experiments. EPA is withdrawing the proposed rule in response to NJDEP's decision not to go forward with the Gold Track Program and not to promulgate an enabling rule. In the rule, EPA proposed to provide New Jersey with authority to provide high-performing companies in New Jersey with the regulatory flexibility to test environmental management strategies designed to produce improved and measurable results. The NJDEP had expressed interest in testing a program designed to achieve environmental excellence through commitments and accountability beyond standard regulatory requirements. Following EPA's April 16, 2002 proposal, the NJDEP communicated to EPA that it did not wish to implement the state rulemaking or the pilot project as originally envisioned. EPA received no public comments on this proposed rule.

DATES: The proposed rule published on April 16, 2002 at 67 FR 18528 is withdrawn as of September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Gerald Filbin, Mail Code 1807T, U.S. Environmental Protection Agency, Office of Policy, Economics and Innovation, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Dr. Filbin's telephone number is (202) 566–2182 and his e-mail address is *filbin.gerald@epa.gov*. Further information on today's action may also be obtained on the internet at *http://www.epa.gov/projectxl/njgold/index.htm*.

SUPPLEMENTARY INFORMATION: Regulatory Impact: Because this action withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or other Executive Orders and statutes that generally apply to those rulemakings.

The proposed rule, ''New Jersey Gold Track Program Under Project XL,'' published on April 16, 2002 at 67 FR 18528 is withdrawn as of September 24, 2009.

Dated: September 16, 2009.

Scott Fulton,

Acting Deputy Administrator.

[FR Doc. E9–22924 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0664; FRL–8962–2]

Approval and Promulgation of Air Quality Implementation Plans; The Chicago and Evansville Nonattainment Areas; Determination of Attainment of the Fine Particle Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Chicago (Illinois and Indiana) and Evansville (Indiana) areas have attained the 1997 fine particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS). The proposed determinations are based upon quality-assured, quality-controlled, and certified ambient air monitoring data that show that the areas have monitored attainment of the 1997 $PM_{2.5}$ NAAQS for the 2006 to 2008 monitoring period. Preliminary data for 2009 suggest that the areas continue to monitor attainment. If these proposed determinations are made final, the requirements for these areas to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning State Implementation Plans (SIPs) revisions related to attainment of the standard shall be suspended for so long as the areas continue to attain the 1997 $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before October 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0664 by one of the following methods:

1. *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail: mooney.john@epa.gov*.

3. *Fax:* (312) 692–2551.

4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0664. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and

made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Melissa M. Barnhart by phone at (312) 353–8641 or by e-mail at *barnhart.melissa@epa.gov* before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Melissa M. Barnhart, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8641, *barnhart.melissa@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

This supplementary information section is arranged as follows:

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Action Is EPA Taking?

EPA is proposing to determine that the Chicago area (including portions in Illinois and Indiana) and the Evansville, Indiana area have attained the 1997 $PM_{2.5}$ NAAQS. The proposed determinations are based upon quality-assured, quality-controlled, and certified ambient air monitoring data that show that the areas have monitored attainment of the 1997 $PM_{2.5}$ NAAQS for the 2006–2008 monitoring period. Preliminary data available to date for 2009 suggest that the areas continue to monitor attainment.

III. What Is the Background for This Action?

On July 18, 1997 (62 FR 36852), EPA established a health-based $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter ($\mu g/m^3$) based on a three-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour standard of 65 µg/m3 based on a three-year average of the 98th percentile of 24-hour concentrations. EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to particulate matter. The process for designating areas following promulgation of a new or revised NAAQS is contained in 107(d)(1) of the Clean Air Act (CAA). EPA and State air quality agencies initiated the monitoring process for the 1997 $PM_{2.5}$ NAAQS in 1999, and developed all air quality monitors by January 2001. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 $PM_{2.5}$ NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The Chicago area (known formally as the Chicago-Gary-Lake County, IL-IN area) and the Evansville area were designated nonattainment for the 1997 $PM_{2.5}$ NAAQS.

IV. Does EPA Believe That the Chicago and Evansville Areas Meet the Annual and 24-Hour $PM_{2.5}$ Standards?

A. Criteria

This rulemaking is assessing whether the Chicago and Evansville $PM_{2.5}$ nonattainment areas are attaining the $PM_{2.5}$ NAAQS that were promulgated in 1997. The Chicago non-attainment area includes portions in Illinois and portions in Indiana. The Illinois portion of this area is defined at 40 CFR 81.314, and the Indiana portion of this area as well as the Evansville area are defined at 40 CFR 81.315.

Under EPA regulations at 40 CFR Part 50, 50.7:

(1) The annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 15.0 $\mu g/m^3$ at all relevant monitoring sites in the subject area.

(2) The 24-hour primary and secondary $PM_{2.5}$ standards, as promulgated in 1997, are met when the 98th percentile 24-hour concentration, as determined in accordance with 40 CFR Part 50, Appendix N, is less than or equal to 65 $\mu g/m^3$ at all relevant monitoring sites in the subject area.

In 2006, EPA revised the 24-hour $PM_{2.5}$ standards to a level of 35 $\mu g/m^3$. However, today's rulemaking only assesses whether the applicable areas are attaining the 1997 standards.

B. Chicago Area

EPA has reviewed the ambient air monitoring data for the Chicago area in accordance with the provisions of 40 CFR Part 50 Appendix N. All data considered have been recorded in EPA's Air Quality System (AQS) database. This review primarily addresses air quality data collected in the three-year period from 2006 to 2008.

The following table provides both the annual average concentration and the 98th percentile 24-hour average

concentration averaged over 2006 to 2008 at all sites in the Chicago area, including sites in both Illinois and Indiana. The highest three-year average annual concentration for 2006 to 2008 on this table is recorded at the Schiller Park site, site number 17–031–3103, recording a three-year average annual concentration of 14.6 μg/m^3. The highest 98th percentile 24-hour average concentration is recorded at the McCook site, site number 17–031–1016, recording a three-year average 98th percentile 24-hour average concentration of 35 μg/m^3. All sites in the area have three-year average annual $PM_{2.5}$ concentrations below 15.0 μg/m^3 and three-year average 98th percentile 24-hour average concentrations far below the 1997 standard of 65 μg/m^3.

TABLE 1—ANNUAL AND 24-HOUR AVERAGE CONCENTRATIONS IN THE CHICAGO AREA (IN μG/M^3)

Site location	Site No.	Annual average concentration	24-Hour average concentration
East 114th	170310022	13.8	31
103rd & Luella	170310050	13.1	29
Mayfair Pumping Stn	170310052	14.1	33
Com Ed	170310057	13.6	31
Lawndale	170310076	13.2	32
McCook	170311016	**	35
Blue Island	170312001	13.3	31
Schiller Park	170313103	14.6	33
Summit	170313301	13.5	31
Des Plaines	170314007	11.8	29
Northbrook	170314201	11.7	30
Cicero	170316005	*(14.1)	33
Naperville	170434002	12.6	32
Elgin	170890003	11.9	33
Aurora	170890007	12.5	29
Zion	170971007	10.6	27
Cary	171110001	11.2	28
Joliet	171971002	12.8	32
Wilmington	171971011	10.7	26
E. Chicago	180890006	13.2	31
Gary-IITRI	180890022	**	31
Gary-Burr St	180890026	**	33
Griffith	180890027	12.4	29
Gary Water	180890031	13.3	31
Gary-Ivanhoe	180891003	13.3	30
Hammond-Purdue	180892004	12.7	30
Hammond-Davis St	180892010	12.9	30
Dune Acres	181270020	12.0	29
Ogden Dunes	181270024	12.2	29

* Data do not meet completeness requirements.
** Data are not to be compared to the annual NAAQS.

Under 40 CFR 58.30(a)(1), for sites with data that are representative of relatively unique, generally localized concentrations, the data are compared only to the 24-hour NAAQS, not to the annual NAAQS. Illinois has one site and Indiana has two sites representing localized concentrations near industrial facilities, and EPA agrees with the States that data at these sites are not to be compared to the annual standard.[1] Illinois has also requested that the Schiller Park site (site number 17–031–3103) be designated as collecting data that is not to be compared to the annual standard. EPA is not judging whether this designation is appropriate. The applicable regulation, at 40 CFR 58.30(a)(2), recognizes that some microscale sites collect data that is representative of multiple locations with localized high concentrations, and provides in these cases that the data are to be compared to the annual standard. The Schiller Park site is near a major highway, and the site may be representative of multiple locations in the Chicago area that have similar proximity to major highways. For this reason, the table above includes annual average concentrations at this site. In any case, the site shows an annual average concentration that meets the annual standard, so that the designation of this site does not influence EPA's finding that the area is attaining the annual standard.

Further consideration of concentrations at Cicero, site 17–031–6005, is necessary because data at this site do not meet completeness requirements, and because the site monitored a violation for the most recent three years with complete data, *i.e.* 2005 to 2007. Under 40 CFR 50 Appendix N 4.1 (addressing the annual standard), a year meets completeness requirements when ''at least 75 percent of the scheduled sampling days for each quarter has valid data.'' This site collected only 50 percent of its scheduled observations during the first quarter of 2008 and 70 percent of its scheduled observations during the fourth quarter of 2008.

Under 40 CFR 50 Appendix N 4.1(c) (again with respect to annual averages), EPA may approve the use of less than complete data for purposes of comparison to the NAAQS, and ''may consider factors such as * * * nearby concentrations in determining whether to use such data.'' The following table summarizes annual average $PM_{2.5}$ concentrations for all monitors operating in the Chicago nonattainment area that have observed a violation of the annual standard for at least one

[1] In any case, the annual average concentrations at these sites averaged for 2006 to 2008 are below 15.0 μg/m^3: the average at Illinois' McCook site (site number 17–031–1016) is 14.7 μg/m^3, the average at Indiana's Burr Street site (site number 18–089–0026) is 14.9 μg/m^3, and the average at Indiana's IITRI site (site number 18–089–0022) is 13.7 μg/m^3.

three-year period since 2002. These monitors are the most similar to the Cicero monitor and provide the most relevant information for assessing air quality at Cicero.

TABLE 2—ANNUAL AVERAGE DESIGN VALUES FOR ALL SITES IN THE CHICAGO AREA WITH VIOLATING MONITORS SINCE 2002 (IN μG/M³)

Site location	Site No.	Annual average design value							
		2002–2004	2003–2005	2004–2006	2005–2007	2006	2007	2008	2006–2008
East 114th	170310022	15.0	15.6	14.8	15.3	13.23	15.73	12.54	13.8
103rd & Luella	170310050	14.9	15.2	14.5	14.7	13.33	14.14	11.80	13.1
Mayfair Pumping Stn	170310052	15.9	16.0	15.6	15.7	14.50	15.49	12.18	14.1
Com Ed	170310057	14.9	15.3	14.6	15.1	13.51	15.18	12.03	13.6
Lawndale	170310076	14.9	15.2	14.7	14.8	13.48	14.30	11.89	13.2
Blue Island	170312001	14.7	15.1	14.6	14.6	13.18	14.32	12.50	13.3
Schiller Park	170313103	16.0	16.8	16.1	15.9	14.84	15.35	13.59	14.6
Summit	170313301	15.3	15.6	15.0	15.2	13.78	14.77	12.03	13.5
Cicero	170316005	16.0	16.1	15.3	15.1	14.34	14.79	13.25	*(14.1)
Gary Water	180890031	.....	16.8	15.1	14.9	13.29	14.55	12.17	13.3

*Data do not meet completeness requirements

EPA used multiple approaches to assess the likelihood that the Cicero site, had it collected complete data, would have shown attainment for the 2006 to 2008 period. One approach was to examine the relationship between concentrations at the Cicero site and concentrations nearby and elsewhere in the area. The Cicero site generally records values slightly below the values at the Schiller Park site; average concentrations from 2002 to 2008 are 0.4 μg/m³ lower at the Cicero site than at the Schiller Park site. More generally, the concentrations at the various sites in the Chicago area are well correlated. EPA also examined quarterly average concentrations at the various sites; these data reinforce the point that the Cicero site is very likely to observe low concentrations when other sites in the area are observing low concentrations. This degree of correlation suggests that the degree of air quality improvement at the various other sites in the area is a good indication of the degree of air quality improvement likely to have occurred at the Cicero site. The other sites all show 2008 annual average around 2–3 μg/m³ lower than the 2007 annual average values, which is approximately the difference between the 2007 average and the average of available 2008 data found at the Cicero site.

In summary, since the available 2008 data at the Cicero site show concentrations that are in the expected range relative to concentrations observed at other similar sites in the area, EPA has confidence that the incomplete data in 2008 at the Cicero site are representative of the concentrations that would likely have been found in a complete data set, and that the complete data set would have shown attainment.

A second approach was to use the 2008 annual average from the Schiller Park site (a traditionally higher concentration site) in lieu of using data from the Cicero site for that year. This yielded a three-year design value of 14.13 μg/m³, indicating attainment. Thus, as provided for in 40 CFR 50 Appendix N 4.1(c), EPA again finds that data from other sites support the finding that the available data at the Cicero site give valid evidence that the site is attaining the standard.

A third approach was a conservative data substitution analysis. For each sampling day in 2008 for which the Cicero site failed to collect data, EPA substituted the highest concentration observed on that day at any site in the Chicago area. This analysis yielded an upper bound 2008 average concentration at Cicero of 14.11 μg/m³, somewhat higher than the 13.25 μg/m³ found with incomplete data. Using this upper bound estimate for 2008, the upper bound estimate for the 2006 to 2008 average concentration at the Cicero site is 14.4 μg/m³. For these reasons, EPA is confident that if the Cicero site had collected complete data in 2008, it would have resulted in a design value that would have been below 15 μg/m³. Thus, EPA believes air quality at this site, as well as at other sites in the area, is meeting the annual air quality standard.

In accordance with Appendix N and standard EPA practice, this review is based on the three most recent years of data, *i.e.,* data from 2006 to 2008. Appendix N does not provide for examining partial years of data, because various seasons of the year reflect various influences on $PM_{2.5}$ concentrations, and a partial year's data may not be representative of values that would be determined from a full year's data set. Nevertheless, EPA examined data from the first half of 2009. For each site, the average of available 2009 data is at or below the average for corresponding periods in 2006 to 2008, and the 98th percentile of available 24-hour average concentrations is again more than 30 μg/m³ below the pertinent standard. Therefore, the available data for 2009 are consistent with the finding, based on 2006 to 2008 data, that the Chicago area is attaining the 1997 $PM_{2.5}$ standards.

On the basis of this review, EPA has concluded that this area attained the 1997 $PM_{2.5}$ NAAQS based on 2006–2008 data. In addition, monitoring data for 2009 that are available to date in the EPA AQS database, but not yet certified, indicate that this area continues to attain the 1997 $PM_{2.5}$ NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

B. Evansville Area

EPA has reviewed the ambient air monitoring data for the Evansville area in accordance with the provisions of 40 CFR Part 50 Appendix N. All data considered have been recorded in EPA's AQS database. This review primarily addresses air quality data collected in the three-year period from 2006 to 2008.

The highest annual average $PM_{2.5}$ concentration in the Evansville nonattainment area for the 2006–2008 monitoring period is 13.7 μg/m³, which occurs both at the Jasper Golf site (site 18–037–0005, in Dubois County) and at

the Evansville/West Mill Road site (site 18–163–0012, in Vanderburgh County). The Evansville area also has four additional monitors with data for 2006 to 2008, at which the 2006–2008 three-year average annual concentrations range from 13.4 to 13.6 μg/m^3. The average 98th percentile 24-hour concentrations range from 28 to 32 μg/m^3. Thus, the Evansville area is observing concentrations well below the 1997 standards of 15.0 μg/m^3 and 65 μg/m^3, respectively. The following table provides annual average and 98th percentile 24-hour average concentrations at all sites in the Evansville area.

TABLE 3—ANNUAL AND 24-HOUR AVERAGE DESIGN VALUES FOR ALL SITES IN THE EVANSVILLE AREA (IN μG/m^3)

Site location	Site No.	Annual average design value	24-Hour average design value
Jasper Sport	180370004	13.4	32
Jasper Golf	180370005	13.7	31
Jasper	180372001	13.6	30
Evansville—Civic Center	181630006	13.4	30
Evansville—W. Mill	181630012	13.7	28
U. of Evansville	181630016	13.6	29

Some sites in the Evansville area did not meet the completeness criterion of measuring at least 75 percent of the scheduled samples. Under 40 CFR 50 Appendix N 4.1(c), (addressing annual averages), EPA may approve the use of less than complete data for purposes of comparison to the NAAQS, and ''may consider factors such as * * * nearby concentrations in determining whether to use such data.'' For these sites, EPA conducted a data substitution analysis, assessing whether the site would still have observed attainment under the hypothesis that the monitor on the days of missed samples might have recorded the highest concentration that the monitor observed during the applicable quarter during the 2006 to 2008 period. Both the Jasper Golf site and the Evansville/West Mill Road site had a quarter in 2006 to 2008 that measured less than 75 percent complete data, but in both cases the substitution analysis indicates that the monitors would have shown attainment even with conservative assumptions about the missing data.

A third site, known as the Jasper Sport Complex site (site 18–037–004, in DuBois County), had missing data to an extent such that the conservative data substitution approach could not be used to confirm that the site is attaining the annual standard. This site began operation in early 2006 (January 29, 2006), and so earlier (*e.g.* 2005 to 2007) three-year averages are not available. Thus, one option is for EPA to find that air quality at this site is indeterminate and to discard this site from its evaluation. The other option is for EPA to examine the data at this site in relation to data at other similar sites in the area, to judge the likelihood that the monitor would have shown attainment had it collected complete data. The available data at this site have always indicated annual average concentrations below 15.0 μg/m^3. The available data at this site are similar to the data are other nearby sites in the area. Therefore, EPA believes this site, like the other sites in the Evansville area, is attaining the standard. In addition, all sites with data from 2005 to 2007 are showing attainment for that period as well. Therefore, EPA is confident that all sites in the Evansville area, including sites that did not meet completeness requirements, are now meeting the 1997 NAAQS.

In accordance with Appendix N and standard EPA practice, this review of data is based on the three most recent years of complete data, generally 2006 to 2008. Appendix N does not provide for examining partial years of data, because various seasons of the year reflect various influences on $PM_{2.5}$ concentrations, and a partial year's data may not be representative of values that would be determined from a full year's data set. Nevertheless, EPA examined data from the first half of 2009. For each site, the average of available 2009 data is at or below the average for corresponding periods in 2006 to 2008, and the 98th percentile of available 24-hour average concentrations is again more than 30 μg/m^3 below the pertinent standard. Therefore, the available data for 2009 are consistent with the finding, based on 2006 to 2008 data, that the Evansville area is attaining the 1997 $PM_{2.5}$ standards.

On the basis of this review, EPA has concluded that this area has met and continues to meet the 1997 $PM_{2.5}$ NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. What Is the Effect of These Actions?

If these determinations are made final, under the provisions of EPA's $PM_{2.5}$ implementation rule (*see* 40 CFR 51.1004(c)), the requirements for the Chicago and Evansville $PM_{2.5}$ nonattainment areas to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 $PM_{2.5}$ NAAQS would be suspended for so long as the area continues to attain the 1997 $PM_{2.5}$ NAAQS.

As further discussed below, the proposed determinations would: (1) For the Chicago and Evansville nonattainment areas, suspend the requirements to submit an attainment demonstration and associated reasonably available control measures (RACM) (including reasonably available control technologies (RACT)), a reasonable further progress plan (RFP), contingency measures, and any other planning SIPs related to attainment of the 1997 $PM_{2.5}$ NAAQS; (2) continue until such time, if any, that EPA subsequently determines that the area has violated the 1997 $PM_{2.5}$ NAAQS; (3) be separate from, and not influence or otherwise affect, any future designation determination or requirements for the Chicago and Evansville areas based on the 2006 $PM_{2.5}$ NAAQS; and (4) remain in effect regardless of whether EPA designates these areas as nonattainment areas for purposes of the 2006 $PM_{2.5}$ NAAQS. Furthermore, as described below, any such final determination would not be equivalent to the redesignation of the area to attainment based on the 1997 $PM_{2.5}$ NAAQS.

If these rulemakings are finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that either or both areas have violated the 1997 $PM_{2.5}$ NAAQS, the basis for the suspension of the specific requirements, set forth at 40

CFR 51.1004(c), would no longer exist for the pertinent area(s), and the pertinent area(s) would thereafter have to address the pertinent requirements.

The determinations that EPA proposes with this action, that the air quality data show attainment of the 1997 $PM_{2.5}$ NAAQS, is not equivalent to the redesignation of the areas to attainment. These proposed actions, if finalized, would not constitute a redesignation to attainment under 107(d)(3) of the CAA, because we would not yet have approved maintenance plans for the areas as required under 175A of the CAA, nor would we have determined that the areas have met the other requirements for redesignation. The designation status of the areas would remain nonattainment for the 1997 $PM_{2.5}$ NAAQS until such time as EPA determines that the areas meet the CAA requirements for redesignation to attainment.

These proposed actions, if finalized, are limited to a determination that the Chicago and Evansville areas have attained the 1997 $PM_{2.5}$ NAAQS. The 1997 $PM_{2.5}$ NAAQS became effective on July 18, 1997 (62 FR 36852) and are set forth at 40 CFR 50.7. The 2006 $PM_{2.5}$ NAAQS, which became effective on December 18, 2006 (71 FR 61144) are set forth at 40 CFR 50.13. EPA is currently in the process of making designation determinations, as required by CAA 107(d)(1), for the 2006 $PM_{2.5}$ NAAQS. EPA has not made any designation determinations for the Chicago or Evansville areas based on the 2006 $PM_{2.5}$ NAAQS. These proposed determinations, and any final determinations, will have no effect on, and are not related to, any future designation determination that EPA may make based on the 2006 $PM_{2.5}$ NAAQS for the Chicago or Evansville areas. Conversely, any future designation determination of the Chicago or Evansville areas, based on the 2006 $PM_{2.5}$ NAAQS, will not have any effect on the determinations proposed by this action.

If these proposed determinations are made final and the Chicago and Evansville areas continue to demonstrate attainment with the 1997 $PM_{2.5}$ NAAQS, the requirements for the Chicago and Evansville areas to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 $PM_{2.5}$ NAAQS would remain suspended, regardless of whether EPA designates these areas as nonattainment areas for purposes of the 2006 $PM_{2.5}$ NAAQS. Once the areas are designated for the 2006 NAAQS, they will have to meet all applicable requirements for that designation.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action proposes to make a determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). Because this rule proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have Tribal implications because it will not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to make a determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks'' (62 FR 19885, April 23, 1997) because it proposes to determine that air quality in the affected area is meeting Federal standards.

The requirements of 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply because it would be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures to otherwise satisfy the provisions of the CAA. This proposed rule does not impose an information collection burden under the provisions of the Paper Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Under Executive Order 12898, EPA finds that this rule, pertaining to the determinations of attainment of the fine particle standard for the Chicago (Illinois and Indiana) and Evansville (Indiana) areas, involves proposed determinations of attainment based on air quality data and will not have disproportionately high and adverse human health or environmental effects on any communities in the area, including minority and low-income communities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 16, 2009.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E9–23087 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2009–0370; FRL–8962–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Clean Air Interstate Rule; NO_X SIP Call Rule; Amendments to NO_X Control Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Pennsylvania State Implementation Plan (SIP). The revision addresses the requirements of EPA's Clean Air Interstate Rule (CAIR) and modifies other requirements in Pennsylvania's SIP that interact with CAIR including: The termination of Pennsylvania's NO_X Budget Trading Program; statewide provisions for large, stationary internal combustion engines; statewide provisions for large cement

kilns; provisions for small sources of NO_X in the Pennsylvania portion of the Philadelphia 8-hour ozone nonattainment area; and emission reduction credits. Although the DC Circuit found CAIR to be flawed, the rule was remanded without vacatur and remains in place. Thus, EPA is continuing to take action on CAIR SIPs as appropriate. CAIR, as promulgated, requires States to reduce emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) that significantly contribute to, or interfere with maintenance of, the national ambient air quality standards (NAAQS) for fine particulates and/or ozone in any downwind State. CAIR establishes budgets for SO_2 and NO_X for States that contribute significantly to nonattainment in downwind States and requires the significantly contributing States to submit SIP revisions that implement these budgets. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participation in EPA-administered cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. In the SIP revision that EPA is proposing to approve, Pennsylvania will meet CAIR requirements by participating in these cap-and-trade programs. EPA is proposing to approve the SIP revision, as interpreted and clarified herein, as fully implementing the CAIR requirements for Pennsylvania. Of note, a final approval action of this SIP revision will result in the automatic withdrawal of the CAIR FIP in Pennsylvania.

DATES: Written comments must be received on or before October 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2009–0370 by one of the following methods:

A. *http://www.regulations.gov.* Follow the online instructions for submitting comments.

B. *E-mail:* *fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2009–0370, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2009–0370. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814–2308, or by e-mail at *powers.marilyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Proposing?

EPA is proposing to approve the SIP revision submitted by Pennsylvania on May 23, 2008, as meeting the applicable CAIR requirements by requiring certain electric generating units (EGUs) to participate in the EPA-administered CAIR cap-and-trade programs addressing SO_2, NO_X annual, and NO_X ozone season emissions. The SIP revision also includes provisions that terminate Pennsylvania's NO_X Budget Trading Program under the NO_X SIP Call and establishes emission caps for the non-EGUs that were affected by the NO_X Budget Trading Program. EPA is also proposing to approve revisions that address NO_X ozone season emission reduction requirements for internal combustion engines and cement kilns statewide, and small sources of NO_X in the five counties that comprise the Pennsylvania portion of the Philadelphia 8-hour ozone nonattainment area, all of which were originally approved as part of the Pennsylvania SIP on September 29, 2006.

II. What Is the Regulatory History of CAIR and the CAIR FIPs?

EPA published CAIR on May 12, 2005 (70 FR 25162). In this rule, EPA determined that 28 States and the District of Columbia contribute significantly to nonattainment and interfere with maintenance of the NAAQS for fine particles ($PM_{2.5}$) and/or 8-hour ozone in downwind States in the eastern part of the country. As a result, EPA required those upwind States to revise their SIPs to include control measures that reduce emissions of SO_2, which is a precursor to $PM_{2.5}$ formation, and/or NO_X, which is a precursor to both ozone and $PM_{2.5}$ formation. For jurisdictions that contribute significantly to downwind $PM_{2.5}$ nonattainment, CAIR sets annual State-

wide emission reduction requirements (*i.e.,* budgets) for SO_2 and annual State-wide emission reduction requirements for NO_X. Similarly, for jurisdictions that contribute significantly to 8-hour ozone nonattainment, CAIR sets State-wide emission reduction requirements or budgets for NO_X for the ozone season (May 1st to September 30th). Under CAIR, States may implement these reduction requirements by participating in the EPA-administered cap-and-trade programs or by adopting any other control measures.

CAIR explains to subject States what must be included in SIPs to address the requirements of section 110(a)(2)(D) of the Clean Air Act (CAA) with regard to interstate transport with respect to the 8-hour ozone and $PM_{2.5}$ NAAQS. EPA made national findings, effective on May 25, 2005, that the States had failed to submit SIPs meeting the requirements of section 110(a)(2)(D). The SIPs were due in July 2000, 3 years after the promulgation of the 8-hour ozone and $PM_{2.5}$ NAAQS. These findings started a 2-year clock for EPA to promulgate a FIP to address the requirements of section 110(a)(2)(D). Under CAA section 110(c)(1), EPA may issue a FIP anytime after such findings are made and must do so within two years unless a SIP revision correcting the deficiency is approved by EPA before the FIP is promulgated.

On April 28, 2006, EPA promulgated FIPs for all States covered by CAIR in order to ensure the emissions reductions required by CAIR are achieved on schedule. The CAIR FIPs require EGUs to participate in the EPA-administered CAIR SO_2, NO_X annual, and NO_X ozone season trading programs, as appropriate. The CAIR FIP SO_2, NO_X annual, and NO_X ozone season trading programs impose essentially the same requirements as, and are integrated with, the respective CAIR SIP trading programs. The integration of the FIP and SIP trading programs means that these trading programs will work together to create effectively a single trading program for each regulated pollutant (SO_2, NO_X annual, and NO_X ozone season) in all States covered by the CAIR FIP or SIP trading program for that pollutant. Further, as provided in a rule published by EPA on November 2, 2007, a State's CAIR FIPs are automatically withdrawn when EPA approves a SIP revision, in its entirety and without any conditions, as fully meeting the requirements of CAIR. Where only portions of the SIP revision are approved, the corresponding portions of the FIPs are automatically withdrawn and the remaining portions of the FIP stay in place. Finally, the CAIR FIPs also allow States to submit abbreviated SIP revisions that, if approved by EPA, will automatically replace or supplement certain CAIR FIP provisions (*e.g.,* the methodology for allocating NO_X allowances to sources in the State), while the CAIR FIP remains in place for all other provisions.

On April 28, 2006, EPA published two additional CAIR-related final rules that added the States of Delaware and New Jersey to the list of States subject to CAIR for $PM_{2.5}$ and announced EPA's final decisions on reconsideration of five issues, without making any substantive changes to the CAIR requirements.

On October 19, 2007, EPA amended CAIR and the CAIR FIPs to clarify the definition of ''cogeneration unit'' and thus the applicability of the CAIR trading program to cogeneration units.

EPA was sued by a number of parties on various aspects of CAIR, and on July 11, 2008, the U.S. Court of Appeals for the District of Columbia Circuit issued its decision to vacate and remand both CAIR and the associated CAIR FIPs in their entirety. *North Carolina* v. *EPA,* 531 F.3d 836 (DC Cir. Jul. 11, 2008). However, in response to EPA's petition for rehearing, the Court issued an order remanding CAIR to EPA without vacating either CAIR or the CAIR FIPs. *North Carolina* v. *EPA,* 550 F.3d 1176 (DC Cir. Dec. 23, 2008). The Court thereby left CAIR in place in order to ''temporarily preserve the environmental values covered by CAIR'' until EPA replaces it with a rule consistent with the Court's opinion. *Id.* at 1178. The Court directed EPA to ''remedy CAIR's flaws'' consistent with its July 11, 2008 opinion, but declined to impose a schedule on EPA for completing that action. *Id.* Therefore, CAIR and the CAIR FIP are currently in effect in Pennsylvania.

III. What Are the General Requirements of CAIR and the CAIR FIPs?

CAIR establishes State-wide emission budgets for SO_2 and NO_X and is to be implemented in two phases. The first phase of NO_X reductions starts in 2009 and continues through 2014, while the first phase of SO_2 reductions starts in 2010 and continues through 2014. The second phase of reductions for both NO_X and SO_2 starts in 2015 and continues thereafter. CAIR requires States to implement the budgets by either: (1) Requiring EGUs to participate in the EPA-administered cap-and-trade programs; or (2) adopting other control measures of the State's choosing and demonstrating that such control measures will result in compliance with the applicable State SO_2 and NO_X budgets.

The May 12, 2005 and April 28, 2006 CAIR rules provide model rules that States must adopt (with certain limited changes, if desired) if they want to participate in the EPA-administered trading programs. With two exceptions, only States that choose to meet the requirements of CAIR through methods that exclusively regulate EGUs are allowed to participate in the EPA-administered trading programs. One exception is for States that adopt the opt-in provisions of the model rules to allow non-EGUs individually to opt into the EPA-administered trading programs. The other exception is for States that include all non-EGUs from their NO_X SIP Call trading programs in their CAIR NO_X ozone season trading programs.

IV. What Are the Types of CAIR SIP Submittals?

States have the flexibility to choose the type of control measures they will use to meet the requirements of CAIR. All States are meeting the CAIR requirements through an option that requires EGUs to participate in the EPA-administered CAIR cap-and-trade programs. For such States, EPA has provided two approaches for submitting and obtaining approval for CAIR SIP revisions. States may submit full SIP revisions that adopt the model CAIR cap-and-trade rules. If approved, these SIP revisions will fully replace the CAIR FIPs. Alternatively, States may submit abbreviated SIP revisions. These SIP revisions will not replace the CAIR FIPs; however, the CAIR FIPs provide that, when approved, the provisions in these abbreviated SIP revisions will be used instead of or in conjunction with, as appropriate, the corresponding provisions of the CAIR FIPs (*e.g.,* the NO_X allowance allocation methodology).

A State submitting a full SIP revision may either adopt regulations that are substantively identical to the model rules or incorporate by reference the model rules. CAIR provides that States may only make limited changes to the model rules if the States want to participate in the EPA-administered trading programs. A full SIP revision may change the model rules only by altering their applicability and allowance allocation provisions to:

1. Include all NO_X SIP Call trading sources that are not EGUs under CAIR in the CAIR NO_X ozone season trading program;

2. Provide for State allocation of NO_X annual or ozone season allowances using a methodology chosen by the State;

3. Provide for State allocation of NO_X annual allowances from the compliance supplement pool (CSP) using the State's choice of allowed, alternative methodologies; or

4. Allow units that are not otherwise CAIR units to opt individually into the CAIR SO_2, NO_X annual, or NO_X ozone season trading programs under the opt-in provisions in the model rules.

An approved CAIR full SIP revision addressing EGUs' SO_2, NO_X annual, or NO_X ozone season emissions will replace the CAIR FIP for that State for the respective EGU emissions. As discussed above, EPA approval in full, without any conditions, of a CAIR full SIP revision causes the CAIR FIPs to be automatically withdrawn.

V. Analysis of Pennsylvania's CAIR SIP Submittal

Pennsylvania's SIP revision is comprised of amendments to Pennsylvania regulations codified at 25 Pa. Code Chapters 121, 129, and 145. These requirements were adopted by the Commonwealth to implement the requirements of CAIR, terminate the Commonwealth's NO_X Budget Trading Program, require NO_X emission limits for the non-EGUs that were trading sources in the NO_X Budget Trading Program, revise provisions relating to the use of allowances by non-CAIR sources and address provisions related to emission reduction credits. A more detailed discussion of the State's submittal may be found in section C of the TSD.

A. State Budgets for Allowance Allocations

The CAIR NO_X annual and ozone season budgets were developed from historical heat input data for EGUs. Using these data, EPA calculated annual and ozone season regional heat input values, which were multiplied by 0.15 lb/mmBtu, for phase 1 and 0.125 lb/mmBtu, for phase 2, to obtain regional NO_X budgets for 2009–2014 and for 2015 and thereafter, respectively. EPA derived the State NO_X annual and ozone season budgets from the regional budgets using State heat input data adjusted by fuel factors.

The CAIR State SO_2 budgets were derived by discounting the tonnage of emissions authorized by annual allowance allocations under the Acid Rain Program under title IV of the CAA. Under CAIR, each allowance allocated in the Acid Rain Program for the years in phase 1 of CAIR (2010 through 2014) authorizes 0.5 ton of SO_2 emissions in the CAIR trading program, and each Acid Rain Program allowance allocated for the years in phase 2 of CAIR (2015 and thereafter) authorizes 0.35 ton of SO_2 emissions in the CAIR trading program.

In today's action, EPA is proposing to approve Pennsylvania's SIP revision that incorporates by reference the budgets established in the CAIR rules. These budgets are: 99,049 tons for NO_X annual emissions from 2009 through 2014 and 82,541 tons from 2015 and thereafter; 42,171 tons for NO_X ozone season emissions from 2009 through 2014 and 35,143 tons from 2015 and thereafter; and 275,990 tons for SO_2 annual emissions from 2009 through 2014 and 193,193 tons from 2015 and thereafter. These are the total amounts of allowances available for allocation for each year under the EPA-administered cap-and-trade programs.

EPA notes that, in *North Carolina, id.* at 916–21, the Court determined, among other things, that the State SO_2 and NO_X budgets established in CAIR were arbitrary and capricious.[1] However, as discussed above, the Court also decided to remand CAIR but to leave the rule in place in order to ''temporarily preserve the environmental values covered by CAIR'' pending EPA's development and promulgation of a replacement rule that remedies CAIR's flaws. *Id.* at 1178. EPA had indicated to the Court that development and promulgation of a replacement rule would take about two years. *Reply in Support of Petition for Rehearing or Rehearing en Banc* at 5 (filed Nov. 17, 2008 in *North Carolina* v. *EPA,* Case No. 05–1224, DC Cir.). The process at EPA of developing a proposal that will undergo notice and comment and result in a final replacement rule is ongoing. In the meantime, consistent with the Court's orders, EPA is implementing CAIR by approving State SIP revisions that are consistent with CAIR (such as the provisions setting State SO_2 and NO_X budgets for the CAIR trading programs) in order to ''temporarily preserve'' the environmental benefits achievable under the CAIR trading programs. *North Carolina,* 550 F.3d at 1178.

B. CAIR Cap-and-Trade Programs

The CAIR NO_X annual and ozone-season model trading rules both largely mirror the structure of the NO_X SIP Call model trading rule in 40 CFR part 96, subparts A through I. While the provisions of the NO_X annual and ozone-season model rules are similar, there are some differences. For example, the NO_X annual model rule (but not the NO_X ozone season model rule) provides for a CSP, which is discussed below, and under which allowances may be awarded for early reductions of NO_X annual emissions. As a further example, the NO_X ozone season model rule reflects the fact that the CAIR NO_X ozone season trading program replaces the NO_X SIP Call trading program after the 2008 ozone season and is coordinated with the NO_X SIP Call program. The NO_X ozone season model rule provides incentives for early emissions reductions by allowing banked, pre-2009 NO_X SIP Call allowances to be used for compliance in the CAIR NO_X ozone-season trading program. In addition, States have the option of continuing to meet their NO_X SIP Call requirement by participating in the CAIR NO_X ozone season trading program and including all their NO_X SIP Call trading sources in that program.

The provisions of the CAIR SO_2 model rule are also similar to the provisions of the NO_X annual and ozone season model rules. However, the SO_2 model rule is coordinated with the ongoing Acid Rain SO_2 cap-and-trade program under CAA title IV. The SO_2 model rule uses the title IV allowances for compliance, with each allowance allocated for 2010–2014 authorizing only 0.50 ton of emissions and each allowance allocated for 2015 and thereafter authorizing only 0.35 ton of emissions. Banked title IV allowances allocated for years before 2010 can be used at any time in the CAIR SO_2 cap-and-trade program, with each such allowance authorizing 1 ton of emissions. Title IV allowances are to be freely transferable among sources covered by the Acid Rain Program and sources covered by the CAIR SO_2 cap-and-trade program.

EPA also used the CAIR model trading rules as the basis for the trading programs in the CAIR FIPs. The CAIR FIP trading rules are virtually identical to the CAIR model trading rules, with changes made to account for Federal rather than State implementation. The CAIR model SO_2, NO_X annual, and NO_X ozone season trading rules and the respective CAIR FIP trading rules are designed to work together as integrated SO_2, NO_X annual, and NO_X ozone season trading programs. The CAIR FIP for Pennsylvania is in place and will be automatically withdrawn upon final approval of this SIP revision.

[1] The Court also determined that the CAIR trading programs were unlawful (*id.* at 906–8) and that the treatment of title IV allowances in CAIR was unlawful (*id.* at 921–23). For the same reasons that EPA is approving the provisions of Pennsylvania's SIP revision that use the SO_2 and NO_X budgets set in CAIR, EPA is also approving, as discussed below, Pennsylvania's SIP revision to the extent the SIP revision adopts the CAIR trading programs, including the provisions addressing applicability, allowance allocations, and use of title IV allowances.

Pennsylvania has chosen to implement its CAIR budgets by requiring EGUs to participate in EPA-administered cap-and-trade programs for SO_2, NO_X annual, and NO_X ozone season emissions. Pennsylvania has adopted a full SIP revision that incorporates by reference the CAIR model cap-and-trade rules for SO_2, NO_X annual, and NO_X ozone season emissions except for the provisions pertaining to: (1) The timing of allocations, (2) the new unit set aside, (3) the priority for issuance of allocations from its State budget, and (4) the establishment of a set aside for certain units.

C. Applicability Provisions

In general, the CAIR model trading rules apply to any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale. Pennsylvania's CAIR rule adopts, by reference, the CAIR model trading rule applicability described in 40 CFR 96.104, 96.204 and 96.304.

States have the option of bringing in, for the CAIR NO_X ozone season program only, those units in the State's NO_X SIP Call trading program that are not EGUs as defined under CAIR. EPA advises States exercising this option to add the applicability provisions in the State's NO_X SIP Call trading rule for non-EGUs to the applicability provisions in 40 CFR 96.304 in order to include in the CAIR NO_X ozone season trading program all units required to be in the State's NO_X SIP Call trading program that are not already included under 40 CFR 96.304. Under this option, the CAIR NO_X ozone season program must cover all large industrial boilers and combustion turbines, as well as any small EGUs (*i.e.* units serving a generator with a nameplate capacity of 25 MWe or less) that the State currently requires to be in the NO_X SIP Call trading program.

Pennsylvania has chosen not to expand the applicability provisions of the CAIR NOx ozone season trading program to include all non-EGUs that participated in the Commonwealth's NOx Budget Trading Program. Instead, Pennsylvania has adopted new requirements that establish individual emissions caps for these units, as well as an overall statewide emissions cap (*see,* Section V. H., below).

D. NO_X Allowance Allocations

Under the NO_X allowance allocation methodology in the CAIR model trading rules and in the CAIR FIP, NO_X annual and ozone season allowances are allocated to units that have operated for five years, based on heat input data from a three-year period that are adjusted for fuel type by using fuel factors of 1.0 for coal, 0.6 for oil, and 0.4 for other fuels. The CAIR model trading rules and the CAIR FIP also provide a new unit set-aside from which units without five years of operation are allocated allowances based on the units' prior year emissions.

States may establish in their SIP submissions a different NO_X allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative NO_X allowance allocation methodologies, States have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;
2. The frequency of allocations;
3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and
4. The use of allowance set-asides and, if used, their size.

Pennsylvania has chosen to adopt, by reference, the allocation methodology of the model rule for both the NO_X annual and the NO_X ozone season trading programs, as modified within the flexibilities of CAIR. Pennsylvania has chosen to replace with its own requirements the provisions of 40 CFR 96.141, 96.142, 96.341, and 96.342 relating to the distribution of allocations and timing of allocations for the CAIR NO_X annual trading program and the CAIR NO_X ozone season trading program The SIP revision requires that allowances for 2010 through 2012 will be submitted to the Administrator by April 30, 2008,[2] allowances for 2013 will be submitted by April 30, 2009, and allowances for each subsequent year will be submitted by April 30 of the year four years prior to the respective control period. While this is different from the model rule provisions, the requirement that allocations be made by the Commonwealth four years in advance of the respective control period meets the CAIR requirements in 40 CFR 51.123(o)(2)(ii)(B) for the NO_X annual trading program and 40 CFR 51.123(aa)(2)(ii)(C) for the NO_X ozone season trading program.

Similarly, the timing for allocation to new units in Pennsylvania is modified. These allocations will be issued for the fifth year after the year the new unit first had NO_X emissions. The SIP revision specifies that by April 30, 2011 and every April 30 thereafter, the allowance allocation for new units will be submitted to the Administrator. This meets the CAIR timing requirements in 40 CFR 51.123(o)(2)(ii)(C) for the NO_X annual trading program and 40 CFR 51.123(aa)(2)(iii)(D) for the NO_X ozone season trading program, which require that EPA be notified of the amount of allowances to be allocated to new units by October 31 and July 31 of the year of the allocation for the NO_X annual trading program and the NO_X ozone season trading program, respectively.

Also, Pennsylvania has chosen not to use a ''set-aside'' for allocations to new units. Instead, existing units, new units, and qualifying resources will be allocated from the same allowance pool. Allocation priority is given to new units, after which existing units and qualifying resources will receive allocations. New unit allowance allocations will be published, and opportunity for public comment provided, by March 31, 2011 and March 31 every year thereafter. The allocation to new units will be based on the previous year's emissions. Allowance allocations will be of a vintage year five years later than the year in which the emissions were generated. A new unit may also receive an allocation based on qualifying converted baseline heat input for existing units, with concurrent allocations continuing each year until the new unit no longer qualifies for new unit allocations. The new unit will no longer qualify as a new unit five years after the unit's first NO_X emissions. After five years, the unit will have transitioned into regular unit status and will no longer be eligible for new unit allocations. Since the new units will receive future year allowances (vintage five years later than the year the emissions were generated) until the unit no longer qualifies as a new unit, the owners and/or operators of the new unit will need to obtain current or prior year (banked) allowances to comply with the current year compliance obligations.

Pennsylvania has chosen this methodology to avoid oversubscription of the set-aside (in which case allowances are prorated and new units do not receive all of its requested allowances), allow new sources to be integrated into the allowance pool, and

[2] Because the Pennsylvania CAIR SIP was not in effect at the time, the 2009 allocations for sources in Pennsylvania were issued under the FIP. Allocations beginning with vintage year 2010 will be issued in accordance with the Commonwealth's CAIR SIP when finally approved.

allow energy efficiency/renewable energy resources a share of allowances allocated from the Commonwealth's budget. CAIR NO_X annual and CAIR NO_X ozone season allocations for new units in Pennsylvania were allocated under the CAIR NO_X Annual and CAIR NO_X Ozone Season FIP for the 2009 control periods.

Pennsylvania has chosen to allocate CAIR NO_X annual and CAIR NO_X ozone season allowances to renewable energy qualifying resources or demand side management energy efficiency qualifying resources. Pennsylvania will determine the allocation of CAIR NO_X annual and CAIR NO_X ozone season allowances based on conversion of the certified quantity of electrical energy production, useful thermal energy, and the energy equivalent value of the measures approved under the Pennsylvania Alternative Energy Portfolio Standard to equivalent thermal energy. The equivalent thermal energy will be the unit's baseline heat input for determining the allowance allocations.

Finally, Pennsylvania has chosen to allocate up to 1.3 percent of its CAIR NO_X annual trading budget in each control period to certain facilities that were exempted from the Acid Rain Program (*see* CAA Section 405(g)(6)(A), 42 U.S.C. 7651d(g)(6)(A)). Because they were not subject to the Acid Rain Program, they received no SO_2 allowances under that program. (Acid Rain Program allowances are used for SO_2 compliance in CAIR.) These facilities are subject to CAIR and receive NO_X annual allowances and NO_X ozone season allowances. The additional NO_X allowances are distributed to these facilities for each control period beginning in 2010 until 2015.

E. Allocation of NO_X Allowances From Compliance Supplement Pool

The CAIR establishes a CSP to provide an incentive for early reductions in NO_X annual emissions. The CSP consists of 200,000 CAIR NO_X annual allowances of vintage 2009 for the entire CAIR region, and a State's share of the CSP is based upon the projected magnitude of the emission reductions required by CAIR in that State. States may distribute CSP allowances, one allowance for each ton of early reduction, to sources that make NO_X reductions during 2007 or 2008 beyond what is required by any applicable State or Federal emission limitation. States also may distribute CSP allowances based upon a demonstration of need for an extension of the 2009 deadline for implementing emission controls.

The CAIR annual NO_X model trading rule establishes specific methodologies for allocations of CSP allowances. States may choose an allowed, alternative CSP allocation methodology to be used to allocate CSP allowances to sources in the States.

Pennsylvania sources are subject to the CAIR FIP for 2009 and CSP allowances will be distributed under those provisions.

F. Individual Opt-In Units

The opt-in provisions of the CAIR SIP model trading rules allow certain non-EGUs (*i.e.*, boilers, combustion turbines, and other stationary fossil-fuel-fired combustion devices) that do not meet the applicability criteria for a CAIR trading program to participate voluntarily in (*i.e.*, opt into) the CAIR trading program. A non-EGU may opt into one or more of the CAIR trading programs. In order to qualify to opt into a CAIR trading program, a unit must vent all emissions through a stack and be able to meet monitoring, recordkeeping, and recording requirements of 40 CFR part 75. The owners and operators seeking to opt a unit into a CAIR trading program must apply for a CAIR opt-in permit. If the unit is issued a CAIR opt-in permit, the unit becomes a CAIR unit, is allocated allowances, and must meet the same allowance-holding and emissions monitoring and reporting requirements as other units subject to the CAIR trading program. The opt-in provisions provide for two methodologies for allocating allowances for opt-in units, one methodology that applies to opt-in units in general and a second methodology that allocates allowances only to opt-in units that the owners and operators intend to repower before January 1, 2015.

States have several options concerning the opt-in provisions. States may adopt the CAIR opt-in provisions entirely or may adopt them but exclude one of the methodologies for allocating allowances. States may also decline to adopt the opt-in provisions at all.

Pennsylvania has chosen to adopt, by reference, the provisions of the model rule allowing opt-ins for the NO_X annual, NO_X ozone season, and SO_2 annual trading programs.

G. Clarifications and Interpretations

Use of ''Future'' Unallocated Allowances To Correct Any Errors in Allocations

Sections 145.212(g) and 145.222(g) allow the use of ''future'' allowances that have not been allocated to correct errors in past allocation. EPA is proposing to approve this revision to the Pennsylvania SIP with the understanding that provisions in sections 145.212(g) and 145.222(g) impacting ''future'' allowances that have not been allocated would rarely be implemented. EPA understands that any corrections to the allocations would be based on calculation errors and would not be routine. EPA understands that correcting errors in allowance allocations would be unlikely since the data that is used to determine allowance allocations is based on past emissions, heat input, electrical energy production, or useful thermal energy and not on data projections. EPA understands that any correction to the ''future'' allowance allocation under these provisions would not occur after the allowances have been recorded by the Administrator.

H. Other Requirements in This SIP Revision

1. Use of CAIR Allowances for Non-CAIR Sources, Sections 129.201, 129.202, 129.204, Sections 145.113, 145.143

These provisions apply to sources not regulated by Pennsylvania's CAIR program. Currently, owners and operators of small sources of NO_X in the five counties that comprise the Pennsylvania portion of the Philadelphia 8-hour ozone non-attainment area are subject to emission limits that, if exceeded, require them to surrender NO_X SIP Call allowances to the Commonwealth. These provisions were approved by EPA into the Pennsylvania SIP on September 29, 2006 (71 FR 57428). Similarly, large stationary internal combustion engines and large cement kilns that are subject to the NO_X SIP Call are required to surrender NO_X SIP Call allowances to the Commonwealth if they exceed their NO_X emission limits. Because the NO_X SIP Call trading program has been discontinued and NO_X SIP Call allowances have been converted to CAIR NO_X ozone season allowances, these rules were modified to instead require CAIR NO_X ozone season allowance and CAIR NO_X allowance surrenders for emission limit exceedances.

EPA is proposing to approve this SIP revision with the understanding that the impact of these surrendered allowances on the overall CAIR market will be minimal. Since these provisions were originally adopted by the Commonwealth, the number of NO_X SIP Call allowances surrendered have been less than one percent of the Commonwealth's total CAIR NO_X ozone season budget, and would likely

continue to be minimal in the CAIR trading program (*See* TSD at (C)(4)).

2. Chapter 145, Subchapter A, NO_X Budget Trading Program; Section 145.8 ''Transition to CAIR NO_X Trading Programs''

EPA will not administer the NO_X Budget Trading Program after the 2008 ozone season. The provisions in section 145.8(a) establish 2008 as the final year for NO_X allowance allocations under Chapter 145, subchapter A, NO_X Budget Trading Program. Allocations for 2009 will be made in accordance with the CAIR NO_X Ozone Season FIP. The CAIR NO_X ozone season allowance allocations for the control period starting May 1, 2010, and for each control period thereafter, will be distributed in accordance with Chapter 145, Subchapter D, CAIR NO_X Trading Programs once Pennsylvania's CAIR SIP is finally approved. Under section 145.8(b), any allowances already allocated for 2009 or later under the NO_X Budget Trading Program are terminated. EPA understands that, under this provision and section 145.8(c), all allowances for these years under the NO_X Budget Trading Program are terminated or retired.

Section 145.8(c) terminates the requirements of the NO_X Budget Trading Program by replacing that program's emissions limitations and monitoring requirements related to the 2010 ozone season (which starts on May 1, 2010) by the CAIR trading program's emissions limitations and monitoring and other requirements related to that ozone season. This section also converts leftover NO_X Budget Trading Program allowances to CAIR NO_X ozone season allowances and provides excess emission procedures for the final year of the NO_X Budget Trading Program. In summary, this section clarifies that: For the 2008 ozone season, Pennsylvania's NO_X Budget Trading Program applies; for the 2009 ozone season, the CAIR FIP applies; and beginning with the 2010 ozone season, Pennsylvania's CAIR NO_X ozone season trading program applies.

Because Pennsylvania has chosen not to expand its CAIR NO_X ozone season trading program to include non-EGUs that were subject to the State's NO_X Budget Trading Program, Pennsylvania is required to meet 40 CFR 51.121(f)(2) and (i)(4). These provisions require either a NO_X mass emissions cap on each source, NO_X emissions rate limit on each source assuming maximum operating capacity for purposes of estimating mass NO_X emissions, or any other regulatory requirement that can provide emission reductions from those sources to meet the 2007 ozone season NO_X budgets established under the NO_X SIP Call. A State must also impose enforceable mechanisms to assure that collectively all such sources, including new or modified units, will not exceed the total ozone season NO_X budget. Pursuant to 40 CFR 51.121(i)(4), these sources must also comply with the monitoring provisions of 40 CFR part 75, subpart H.

Pennsylvania has added new section 145.8(d) to address requirements of units subject to the NO_X Budget Trading Program, but not subject to the CAIR NO_X Ozone Season trading Program. Beginning with the 2009 ozone season, these units will be required to meet an emissions cap and to continue monitoring using 40 CFR part 75 (required through compliance with 40 CFR part 96, Subpart HHHH and related subparts incorporated by reference). Pennsylvania's non-EGU NO_X ozone season emissions trading budget under the NO_X SIP Call totals 3,619 tons of NO_X. Pennsylvania uses 3,438 tons as a State-wide ozone season emission limitation for these units. Each unit has an allowable emission rate, calculated by January 31 of each year, based on the previous season's heat input. If the combined NO_X ozone season emissions from all the units subject to section 145.8(d) exceed the statewide ozone season emission limit (3,438 tons), the units that exceed their individual allowable emissions for that ozone season must surrender to the Commonwealth one CAIR NO_X ozone season allowance and one CAIR NO_X annual allowance for each ton of emissions over its allowable emission limit. The Commonwealth has set aside 181 tons of the non-EGU budget, including tons that will be retired each year to compensate for sources that were exempted under the ''twenty-five ton exemption'' in section 145.4(b) [3]. The balance of tons remaining in the set aside is available to the Pennsylvania Department of Environmental Protection annually for accounting corrections. EPA understands that any unused amount from this set aside would be retired by the Commonwealth each year.

It is unlikely that the statewide NO_X ozone season emission limitation (3,438 tons) will be exceeded. Pennsylvania's non-EGU sources' total emissions during each of the years they were trading under the NO_X Budget Trading Program have never exceeded Pennsylvania's total non-EGU trading budget (3,619 tons) or the statewide NO_X ozone season emission limitation (3,438 tons) (*See* TSD at (C)(4)). Therefore, the provision that the non-EGUs (that were formerly trading sources under the NO_X Budget Trading Program) surrender CAIR allowances when the statewide NO_X Ozone season emission limitation budget is exceeded is unlikely to be invoked.

Included in Subchapter D are provisions that integrate emission reduction credits (ERCs) under new source review with CAIR allowances. The provisions require that to the extent a CAIR unit is reducing its NO_X emissions and generating emission reduction credits for use by another source to meet new source review requirements, the CAIR NO_X annual and ozone season budgets must be reduced an amount equal to the ERCs. In years for which allowances have already been allocated, allowances must be surrendered by the owner or operator of the CAIR unit generating the ERC in order to reduce the budgets. In years for which allowances have not yet been recorded, the budgets will be reduced before allowances are recorded and distributed.

EPA expects that the amount of allowances removed from the CAIR budgets as a result of these provisions would likely be minimal. EPA is therefore proposing to approve these provisions.

VI. Proposed Action

EPA is proposing to approve Pennsylvania's full CAIR SIP revision submitted on May 23, 2008. The SIP revision meets the applicable requirements of CAIR, set forth in 40 CFR 51.123(o) and (aa), with regard to NO_X annual and NO_X ozone season emissions, and 40 CFR 51.124(o), with regard to SO_2 emissions. EPA is also proposing to approve revisions to other Pennsylvania regulations submitted as part of this SIP revision as discussed in this notice. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act.

[3] Sources that were exempted under the ''25 ton exemption'' provisions of the NO_X Budget Trading Program must continue to have the same Federally enforceable permits limits (as were required under the NO_X Budget Trading Program), including restricting the units to burning only natural gas or fuel oil and NO_X emissions to 25 tons or less in a control period.

Accordingly, this action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed approval of the Pennsylvania SIP revision to meet the requirements of CAIR and transition from the NO_X Budget Program does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 15, 2009.

William C. Early,

Acting Regional Administrator, Region III.

[FR Doc. E9–23052 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0293; FRL–8961–7]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Lead (Pb) Maintenance Plan Update for Marion County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request submitted by the Indiana Department of Environmental Management (IDEM) on April 1, 2009, to revise the Indiana State Implementation Plan (SIP) for lead (Pb). The State has submitted an update to its Pb maintenance plan for Marion County for continued attainment of the 1.5 micrograms per cubic meter ($\mu g/m^3$) National Ambient Air Quality Standard (NAAQS) promulgated in 1978. This update satisfies section 175A of the Clean Air Act (CAA), and is in accordance with EPA's May 10, 2000 approval of the State's Redesignation Request and Maintenance Plan for the Marion County Pb nonattainment areas. Additionally, this Pb maintenance plan satisfies the requirements for maintenance plans contained in the September 4, 1992 EPA memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

DATES: Comments must be received on or before October 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0293, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: mooney.john@epa.gov.*
3. *Fax:* (312) 692–2551.
4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Final Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0258, *chang.andy@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 14, 2009.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

[FR Doc. E9–22918 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2009–0512; FRL–8962–1]

Determination of Attainment, Approval and Promulgation of Air Quality Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make a determination, under the Clean Air Act (CAA), that the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) ozone nonattainment area has attained the 1997 eight-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based on complete, quality-assured ambient air quality monitoring data for the period of 2006–2008. Preliminary data for 2009 show that the area continues to attain the standard. EPA is also proposing to approve a request from the State of Indiana to exempt sources of Nitrogen Oxides (NO_X) in Lake and Porter Counties from CAA requirements for Reasonably Available Control Technology (RACT). The State's NO_X RACT waiver request is based on the most recent three years of complete, quality-assured ozone monitoring data, which demonstrate that additional reduction of NO_X emissions would not contribute to attainment of the 1997 eight-hour ozone NAAQS in the Chicago-Gary-Lake County, IL-IN area. This action proposes to approve the State's request for a waiver from the NO_X RACT requirements for Lake and Porter Counties under the CAA. In the Final Rules section of this **Federal Register**, EPA is deferring the imposition of sanctions for the State's failure to submit required NO_X RACT regulations based on this proposed attainment determination while we complete action on the proposed NO_X RACT waiver. This deferral of sanctions will continue unless EPA determines that the area is no longer attaining the 1997 eight-hour ozone NAAQS. However, if EPA proposes and takes final action in the future to redesignate the area to attainment, such action will permanently stop the sanctions clock.

DATES: Comments must be received on or before October 26, 2009.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2009–0512, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 692–2551.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th Floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2009–0512. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects and viruses. For additional instructions on submitting comments, go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty at (312) 886–6057 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6057.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified in the proposed rule.

II. What Is the Background for This Action?

EPA has determined that ground-level ozone (O_3) is detrimental to human health. On July 18, 1997 (62 FR 38856), EPA promulgated an eight-hour ozone NAAQS of 0.08 parts per million parts of air (0.08 ppm). This standard is violated in an area when any ozone monitor in the area (or in its downwind environs) records eight-hour ozone concentrations with a three-year average of the annual fourth-highest daily maximum eight-hour ozone concentrations equaling or exceeding 85 parts per billion parts of air (ppb).

Section 107 of the CAA required EPA to designate as nonattainment any area that violated the 1997 eight-hour ozone standard. The **Federal Register** notice promulgating the eight-hour ozone designations and classifications was published on April 30, 2004 (69 FR 23857). In that EPA rulemaking, the Chicago-Gary-Lake County, IL-IN area, which contains Lake and Porter Counties, Indiana, was designated as a nonattainment area for the 1997 eight-hour ozone standard, and the designation became effective on June 15, 2004.

Ground-level ozone is not generally emitted directly by sources. Rather, emitted NO_X and Volatile Organic Compounds (VOC) react in the presence of sunlight to form ground-level ozone as a secondary compound, along with other secondary compounds. NO_X and VOC are referred to as ''ozone precursors.'' Reduction of peak ground-level ozone concentrations is achieved through controlling VOC and NO_X emissions.

The CAA, title 1, part D contains two sets of provisions—subparts 1 and 2—that address planning and emission control requirements for ozone nonattainment areas. Subpart 1 contains general, less prescriptive requirements for all nonattainment areas of any pollutant governed by a NAAQS. Subpart 2 contains more specific requirements for certain ozone nonattainment areas and applies to ozone nonattainment areas classified under section 181 of the CAA. The Chicago-Gary-Lake County, IL-IN area is classified as a moderate nonattainment area for the 1997 eight-hour ozone standard.

The subpart 2 ozone plan requirements under the CAA with respect to control of VOC and NO_X emissions depend on the ozone nonattainment classification of an area. The air quality planning requirements for the reduction of NO_X emissions are set forth in section 182(f) of the CAA. Section 182(f) requires States with areas designated nonattainment for ozone and classified as moderate and above to adopt and implement the same level of NO_X emission controls for major stationary sources as apply to major stationary sources of VOC emissions. Section 182(f) also provides that these NO_X emission reduction requirements do not apply to an area outside of an ozone transport region if EPA determines that additional reductions of NO_X emissions would not contribute to attainment of the ozone standard in the area. Section 182(f)(1)(A). In areas where the ozone standard is attained, as demonstrated by complete, quality-assured air quality data, without the implementation of the additional section 182(f) NO_X emission controls, it is clear that the additional NO_X emission reductions required by section 182(f) did not contribute to attainment of the ozone standard.

On March 17, 2008, EPA notified Thomas W. Easterly, Commissioner, Indiana Department of Environmental Management (IDEM), that EPA had determined that the State of Indiana had failed to submit a NO_X RACT State Implementation Plan (SIP) revision for Lake and Porter Counties (the Indiana portion of the Chicago-Gary-Lake County, IL-IN ozone nonattainment area for the 1997 eight-hour ozone standard). EPA formalized this finding in the **Federal Register** on March 24, 2008 (73 FR 15416), and that action commenced the sanctions process outlined by section 179 of the CAA and 40 CFR 52.31. *See* 59 FR 39832, August 4, 1994. Under this process, the new source two-to-one (2:1) emissions offset sanction would take effect in Lake and Porter Counties on September 24, 2009. The sanctions clock would run and any imposed sanctions would remain in effect until either a NO_X RACT SIP revision is submitted to EPA by the State of Indiana and is affirmatively determined complete by EPA or a NO_X control exemption (waiver) under section 182(f) is granted by EPA. In the Final Rules section of today's **Federal Register,** EPA has published an interim final rule to defer sanctions for Lake and Porter Counties based on our proposed determination that the Counties are attaining the 1997 eight-hour ozone NAAQS and that the NO_X RACT waiver request is approvable.

The criteria established for determining the applicability of section 182(f) NO_X emission controls and the evaluation of section 182(f) NO_X emission control waiver requests are set forth in a January 14, 2005, EPA policy memorandum, ''Guidance on Limiting Nitrogen Oxides (NO_X) Requirements Related to 8-Hour Ozone Implementation,'' from Stephen D. Page, Director, Office of Air Quality Planning and Standards.

III. State Petition

On June 5, 2009, IDEM submitted a request for the redesignation of Lake and Porter Counties to attainment of the 1997 eight-hour ozone standard. As part of this ozone redesignation request, IDEM also requested an exemption from NO_X RACT requirements for Lake and Porter Counties under section 182(f) of the CAA based on the monitoring of ozone, which showed attainment of the 1997 eight-hour ozone standard in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area and at the Chiwaukee Prairie monitoring site in Kenosha County, Wisconsin monitoring site.[1] The NO_X exemption request is based on ozone air quality monitoring data for the period of 2006–2008, which demonstrate that the 1997 eight-hour ozone NAAQS has been attained in the area without additional reductions of NO_X emissions.

IV. EPA Analysis of the Petition

A. Has the Chicago-Gary-Lake County, IL-IN Area Attained the 1997 Eight-Hour Ozone NAAQS?

An area may be considered to be attaining the 1997 eight-hour ozone standard if there are no violations of the standard, as determined in accordance with 40 CFR 50.10 and appendix I, based on the most recent three complete, consecutive calendar years of quality-assured air quality monitoring data at all ozone monitoring sites in the area and in its nearby downwind environs. To attain this standard, the average of the annual fourth-high daily

[1] Although the Chiwaukee Prairie monitoring site is outside of the Chicago-Gary-Lake County, IL-IN ozone nonattainment area, it is very near the Illinois-Wisconsin border and is considered to be a peak ozone impact site for VOC and NO_X emissions originating in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area. The fact that the Chiwaukee Prairie ozone monitoring site is the ozone design value site for the Chicago-Gary-Lake County, IL-IN eight-hour ozone nonattainment area is documented in an enclosure to a December 3, 2003 letter from Thomas V. Skinner, Regional Administrator, Region 5, U.S. Environmental Protection Agency to Honorable Rod R. Blagojevich, Governor, State of Illinois.

maximum eight-hour average ozone concentrations measured and recorded at each monitoring site (the monitoring site's ozone design value) over the most recent three-year period must not exceed the ozone standard. Based on an ozone data rounding convention described in 40 CFR 50, appendix I, the eight-hour ozone standard is attained if the area's ozone design value [2] is 0.084 ppm or less. The data must be collected and quality-assured in accordance with 40 CFR 58, and must be recorded in EPA's Air Quality System (AQS). The ozone monitors generally should have remained at the same locations for the duration of the monitoring period required to demonstrate attainment (for three years or more). The data supporting attainment of the standard must be complete in accordance with 40 CFR 50, appendix I.

As part of the June 5, 2009, ozone redesignation request, IDEM summarized the annual fourth-high eight-hour ozone concentrations and the three-year eight-hour ozone design values for the period of 2003–2008 for all ozone monitoring sites in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area. This summary also includes ozone concentration data for the Chiwaukee Prairie monitoring site in Wisconsin. IDEM notes that the 2006–2008 ozone design values for all monitoring sites are below the 0.084 ppm ozone attainment level. We have reviewed the data and agree that the ozone monitoring data for the monitoring sites in the nonattainment area and for the Chiwaukee Prairie, Wisconsin monitoring site show attainment of the 1997 eight-hour ozone standard. The worst-case 2006–2008 ozone design [3] for the Chicago-Gary-Lake County, IL-IN area is found at the Chiwaukee Prairie monitoring site, with a value of 0.078 ppm, below the 0.08 ppm eight-hour ozone standard level. *See* Table 1 below.

Table 1 summarizes the annual fourth-high daily maximum eight-hour ozone concentrations and three-year (2006–2008) averages of the annual fourth-high daily maximum eight-hour ozone concentrations for all ozone monitoring sites in the Chicago-Gary-Lake County, IL-IN area and for the Chiwaukee Prairie monitoring site. The 2006–2008 monitoring data cover the most recent three years of quality assured ozone monitoring data for this area. These representative peak ozone concentrations are based on 2006–2008 ozone data that have been quality assured and certified by the States of Indiana, Illinois, and Wisconsin.

TABLE 1—ANNUAL FOURTH-HIGH DAILY MAXIMUM EIGHT-HOUR OZONE CONCENTRATIONS IN PARTS PER MILLION (PPM) AND THREE-YEAR AVERAGES

Monitoring site	2006	2007	2008	Three-year average
Indiana Monitoring Sites				
Gary	0.073	0.085	0.062	0.073
Hammond	0.075	0.077	0.068	0.073
Ogden Dunes	0.070	0.084	0.069	0.074
Valparaiso	0.071	0.080	0.061	0.070
Whiting	0.081	0.088	0.062	0.077
Illinois Monitoring Sites				
Alsip	0.078	0.085	0.066	0.076
Chicago-Cheltenham	0.075	0.082	0.066	0.074
Chicago-Adams	0.073	0.084	0.058	0.071
Chicago-Ellis Avenue	0.070	0.079	0.063	0.070
Chicago-Ohio Street	0.065	0.075	0.063	0.067
Chicago-Lawndale	0.075	0.080	0.066	0.074
Chicago-Hurlbut Street	0.077	0.079	0.063	0.073
Lemont	0.070	0.085	0.071	0.075
Cicero	0.060	0.068	0.060	0.062
Northbrook	0.068	0.076	0.063	0.069
Evanston	0.072	0.080	0.058	0.070
Lisle	0.062	0.072	0.057	0.063
Elgin	0.062	0.075	0.061	0.066
Waukegan	0.071	0.081	0.061	0.071
Illinois Beach State Park	0.068	0.080	0.067	0.071
Cary	0.057	0.074	0.063	0.064
Essex Road	0.068	0.071	0.057	0.065
Wisconsin Monitoring Site				
Chiwaukee Prairie	0.079	0.085	0.069	0.078

Review of the 2006–2008 ozone concentrations and ozone design values summarized in Table 1 shows that all of the ozone monitoring sites for the Chicago-Gary-Lake County, IL-IN area, plus the Chiwaukee Prairie monitoring site in Wisconsin, were attaining the 1997 eight-hour ozone standard during this period. Therefore, based on the most recent three years of quality assured ozone monitoring data, the 1997 eight-hour ozone standard has been

[2] The worst-case monitoring site-specific ozone design value in the area and in its downwind environs.

[3] For an individual ozone monitoring site, the ozone design value is the three-year average of the annual fourth-highest daily maximum eight-hour ozone concentrations. For any given area, the area's ozone design value is the worst-case site-specific ozone design value for all ozone monitoring sites in the area.

attained in this area. Preliminary data for 2009[4] indicate that the area continues to attain the standard. Based on these ozone monitoring data, EPA is proposing here to determine that the Chicago-Gary-Lake County, IL-IN ozone nonattainment area has attained the 1997 eight-hour ozone standard.

B. EPA Analysis of the State's NO_X RACT Waiver Petition

EPA's 2005 guidance document, ''Guidance on Limiting Nitrogen Oxides (NOx) Requirements Related to 8-Hour Ozone Implementation,'' sets forth the criteria for demonstrating that further NO_X emission reductions in an ozone nonattainment area will not contribute to ozone attainment. The guidance provides that three consecutive years of monitoring data documenting ozone levels attaining the ozone NAAQS in areas in which a State has not implemented certain NO_X emission controls (*see* discussion below) is adequate to demonstrate that the additional NO_X emission reductions will not aid in achieving attainment of the ozone NAAQS. As described in the guidance document, approval of the NO_X emission control exemption is granted by EPA on a contingent basis. The NO_X emission control exemption continues only as long as the State(s) continues to monitor attainment of the ozone NAAQS. If, prior to redesignation of the area to attainment of the ozone NAAQS, the area violates the 1997 eight-hour ozone NAAQS, as defined at 40 CFR 50.10 and appendix I, EPA will undertake rulemaking to withdraw the NO_X RACT emission control exemption for the area. Upon issuance of a final action withdrawing the NO_X RACT emission control exemption, the area would once again be subject to the NO_X emission control requirements under section 182(f) of the CAA.

As noted above, IDEM documented the annual fourth-highest daily maximum eight-hour ozone concentrations during the period of 2006–2008 for all ozone monitors in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area and for the Chiwaukee Prairie monitoring site in Kenosha County, Wisconsin in the June 5, 2009, submittal. These data demonstrate that the 1997 eight-hour ozone NAAQS has been attained in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area.

Indiana has not adopted or implemented the NO_X RACT emission controls required for Lake and Porter Counties under section 182(f). Based on the most recent ozone air quality data and the absence of these NO_X RACT emission controls, IDEM has requested exemption from the NO_X RACT requirements under section 182(f)(1)(A).

EPA's review of the ozone monitoring data and IDEM's NO_X emission control exemption request shows that Indiana has complied with the requirements for a NO_X RACT exemption under section 182(f) of the CAA consistent with guidelines contained in EPA's January 14, 2005, guidance document. Therefore, EPA proposes to determine that the State of Indiana qualifies for an exemption from NO_X RACT requirements for Lake and Porter Counties.

V. Sanctions

If EPA takes final action approving IDEM's June 5, 2009, NO_X RACT exemption request, Lake and Porter Counties would not be subject to the NO_X RACT requirement for the duration of the emission control exemption. Based on our proposed determination that the area has attained the 1997 eight-hour ozone NAAQS and our proposed approval of the NO_X RACT waiver request, in today's **Federal Register** we are separately issuing an interim final determination that it is more likely than not that the State has corrected the deficiency. That action will defer the imposition of the 2:1 offset sanction that would take effect on September 24, 2009, and defer the imposition of the highway funding sanction that would take effect six months following imposition of the offset sanction. The imposition of sanctions will continue to be deferred if EPA takes final action determining that the area has attained the 1997 eight-hour ozone NAAQS and approves the NO_X RACT waiver. The area will not be permanently relieved of the possibility of sanctions until such time as EPA approves a redesignation request for the area. If, prior to redesignation of Lake and Porter Counties to attainment of the 1997 eight-hour ozone NAAQS, the NO_X RACT exemption is revoked due to a monitored violation of the 1997 eight-hour ozone NAAQS anywhere in the Chicago-Gary-Lake County, IL-IN area or at the Chiwaukee Prairie monitoring site, the sanctions clock will restart at the point it stopped and the imposition of sanctions will no longer be deferred. If Lake and Porter Counties are redesignated to attainment of the 1997 eight-hour ozone NAAQS through a final rule by the EPA, the NO_X RACT waiver will become permanent and the sanctions clock will permanently stop, and any imposed sanctions resulting from Indiana's failure to submit NO_X RACT regulations for Lake and Porter Counties would no longer apply.

VI. What Are the Environmental Effects of This Action?

The section 182(f) NO_X RACT exemption is based on a finding that additional reductions of NO_X would not contribute to attainment of the 1997 eight-hour ozone NAAQS in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area. This area has three consecutive years of ozone levels attaining the ozone standard even though Indiana has not adopted and implemented NO_X RACT in Lake and Porter Counties.

While EPA is proposing to waive the requirements to control NO_X emissions through NO_X RACT in Lake and Porter Counties on the basis that NO_X emission reductions would not contribute to attainment of the ozone NAAQS in the Chicago-Gary-Lake County, IL-IN area, EPA recognizes that there are other benefits to controlling NO_X emissions. These benefits include reducing acid deposition, reducing nitrogen deposition in sensitive wetlands, estuaries, and their watersheds, and mitigating ozone transport to downwind ozone nonattainment areas. Indiana will continue to be required to control NO_X emissions from certain NO_X sources under other CAA programs, such as the Acid Rain program in title IV of the CAA, for purposes of achieving these environmental benefits. This proposed NO_X RACT waiver for Lake and Porter Counties will not affect other existing and pending NO_X emission control requirements for Lake and Porter Counties needed to achieve these environmental benefits.

In addition, EPA notes that an approval of this waiver request is solely for purposes of the CAA requirements to meet the 1997 eight-hour ozone NAAQS. The waiver would not apply for purposes of the ozone NAAQS promulgated in 2008 (March 27, 2008, 73 FR 16435) or for purposes of any future ozone NAAQS EPA may promulgate. To the extent section 182(f) applies in this area for purposes of the 2008 or any future ozone NAAQS, the State would need to submit a NO_X RACT SIP or would need to demonstrate that a waiver is appropriate for purposes of that different ozone NAAQS.

[4] Quality-assured ozone data for 2009 are generally only available through June in EPA's Air Quality System for Illinois, Indiana, and Wisconsin, providing an incomplete picture of the peak ozone concentrations for all high ozone months in 2009. Nonetheless, these data, coupled with draft data used to support ozone action alerts, indicate that no violations of the 1997 eight-hour ozone NAAQS have been monitored to date in this area in 2009.

VII. EPA's Proposed Action

Based on complete, quality-assured ozone data for 2006–2008, and considering 2009 ozone data available to date, EPA is proposing to determine that the Chicago-Gary-Lake County, IL-IN ozone nonattainment area is attaining the 1997 eight-hour ozone standard.

EPA is proposing approval of Indiana's request to exempt Lake and Porter Counties from the section 182(f) NO_X RACT requirement. This proposed approval is based on EPA's review of the evidence provided by Indiana that the requirements of section 182(f)(1)(A), as elaborated upon in EPA's guidance for section 182(f) exemptions, have been met for Lake and Porter Counties. In the future, if EPA determines that a violation of the 1997 eight-hour ozone NAAQS has occurred in the Chicago-Gary-Lake County, IL-IN area or at the Chiwaukee Prairie monitoring site in Kenosha County, Wisconsin while Lake and Porter Counties are designated as nonattainment for the 1997 eight-hour ozone NAAQS, EPA will take action to revoke the exemption.

Final approval of Indiana's NO_X RACT exemption request would continue the deferral of the 2:1 new source offset sanction and the highway funding sanction that would have applied based on the finding of failure to submit the NO_X RACT regulations issued by the EPA on March 24, 2009. The deferral would remain in place contingent upon continued attainment of the 1997 eight-hour ozone NAAQS in the Chicago-Gary-Lake County, IL-IN area. If EPA approves a redesignation request for the area for the 1997 eight-hour ozone NAAQS, the sanctions clock will permanently stop at that time. If EPA determines that there is a violation of the 1997 eight-hour ozone NAAQS while Lake and Porter Counties remain designated as nonattainment for the 1997 eight-hour ozone NAAQS, the NO_X RACT waiver will no longer be applicable as of the effective date of any such determination by EPA. At that time, the sanctions will no longer be deferred and the sanctions clock will restart at the point at which it stopped. EPA will provide notice in the **Federal Register** of any such waiver revocation and of the restarting of the sanctions clock.

VIII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 16, 2009.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. E9–23042 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0907281181–91191–01]

RIN 0648–AX93

Fisheries of the Northeastern United States; Modification to the Gulf of Maine/Georges Bank Herring Midwater Trawl Gear Authorization Letter

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: NMFS reopens for 6 days the comment period on the proposed rule to modify the requirements of the Gulf of Maine/Georges Bank (GOM/GB) Herring Midwater Trawl Gear Letter of Authorization (LOA) for midwater trawl vessels issued All Areas and/or Areas 2 and 3 Atlantic herring limited access permits fishing in Northeast (NE) multispecies Closed Area I (CA I).

DATES: The deadline for written comments on the September 4, 2009 (74 FR 45798), proposed rule is reopened through September 27, 2009.

ADDRESSES: You may submit comments, identified by 0648–AX93, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-rulemaking portal: *http://www.regulations.gov*.
- Mail: Paper, disk, or CD-ROM comments should be sent to Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930–2276. Mark the outside of the envelope: ''Modification to GOM/GB Midwater Trawl LOA.''
- Fax: (978) 281–9135.

Instructions: All comments received are part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business

information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter ''N/A'' in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF formats only.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Policy Analyst, (978) 281–9341, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council (Council) voted at its April 8, 2009, Council meeting to request that the NMFS Northeast Regional Administrator modify the GOM/GB Herring Midwater Trawl Gear LOA to require midwater trawl vessels fishing in CA I to have 100-percent observer coverage; be prohibited from slipping codends (the practice of opening the codend of the net and releasing the catch before all of it is brought on board); and be required to pump aboard the vessel all fish caught, to allow sampling by the observer.

On September 4, 2009, the proposed rule to implement the Council's requested expanded observer coverage published in the **Federal Register** (74 FR 45798) with a 15-day comment period that closed on September 21, 2009. NMFS has received several requests from members of the fishing industry to extend the comment period until after the Council meeting on September 22–24, 2009. Therefore, to allow for additional public comment to be submitted after this proposed action is discussed at the Council meeting, NMFS is reopening the comment period on the proposed rule through September 27, 2009.

Dated: September 21, 2009.

James W. Balsiger,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23063 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 74, No. 184
Thursday, September 24, 2009

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Performance Standards and Reporting for Supplemental Nutrition Assistance Program Modernization Initiatives

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection for Performance Standards and Reporting for the Supplemental Nutrition Assistance Program (SNAP) Modernization Initiatives.

DATES: Written comments must be received on or before November 23, 2009.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Steven Carlson, Director, Office of Research and Analysis, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Steven Carlson at 703–305–2576 or via e-mail to *Steve.Carlson@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m. Monday through Friday) at 3101 Park Center Drive, Room 1014, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Steven Carlson at 703–305–2017.

SUPPLEMENTARY INFORMATION:

Title: Performance Standards and Reporting for Supplemental Nutrition Assistance Program Modernization Initiatives.

OMB No.: Not yet assigned.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: The profile of SNAP participants has changed to include an increasing number of working families, resulting in efforts by many States to modernize SNAP to improve access among eligible households and increase operational efficiency, while maintaining payment accuracy. In addition, there is a trend for government services to adopt business procedures that promise better service and more efficiency. Finally, reduced resources and budget constraints are leading many States to look for approaches that reduce administrative costs while maintaining or improving client services.

Modernization adjusts the traditional SNAP administration procedures, and it introduces new avenues of access to benefits. Section 4116 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234) amended Section 11 of the Food and Nutrition Act of 2008, 7 USC 2020, to include a provision for FNS to develop standards for identifying major operational changes and for States to provide any information required by the USDA. While developing such standards is not the focus of this data collection effort, the legislation indicates a high federal priority placed on understanding and measuring efforts to modernize SNAP service delivery.

Modernization creates the opportunity for increased efficiency and improved service delivery, but it also poses potential threats to smooth operations. Although States report some required measures of SNAP access, accuracy, and efficiency to FNS, individual States may supplement the measures and standards with their own efforts to maximize internal accountability and efficiency. FNS has not set performance requirements for most modernization initiatives; hence, the Agency has requisitioned this study in order to better understand how States are assessing performance of their modernization initiatives.

To assess the existing modernization activities underway in each State, FNS plans to study SNAP performance measurement in all 50 States and the District of Columbia. Data collection will include a survey, telephone and in-person interviews, and administrative records collection from State and local SNAP offices, and SNAP community business and not-for-profit partners.

Affected Public: State, Local or Tribal Government; Businesses or other for-profits; Not-for-profit institutions. Respondent groups identified include: (1) State and local SNAP offices; (2) SNAP community business and not-for-profit partners.

Estimated Number of Respondents: The total estimated number of respondents is 913. This includes: 178 State and District of Columbia SNAP office staff, 400 county and local SNAP office staff, and 335 SNAP partners at local community organizations and businesses.

Estimated Number of Responses per Respondent: The estimated number of responses per respondent is one to four, depending on the respondent.

Thirty State and District of Columbia SNAP office staff will participate in all four responses for this study, including the survey, the telephone and in-person interviews, and the records collection. From the State and District of Columbia SNAP offices, 98 staff members will participate in everything except the in-person interviews. Twenty staff

members will participate in the survey and records collection, and 25 staff will only participate in in-person interviews on site.

Similarly, 40 county and local SNAP office staff will be asked to complete all four components of the study. Two people at each site, minus the 40 who will complete all four study components (for a total of 260 respondents) will participate in the survey, the telephone interview, and the records collection, but will not receive the in-person interviews. A total of approximately 50 county and local SNAP office staff will participate in in-person interviews only.

Twenty staff from SNAP partners will also be asked to respond to a phone interview, to participate in in-person interviews, and to provide available data records from the past 12 months. For SNAP partners, 163 staff members will be invited to participate in a telephone interview, and those participants will also be asked to conduct the records collection. Another 30 SNAP partners will participate in in-person interviews, but not in the other study components..

Estimated Time per Response: The estimated time of response varies from 10 minutes (0.167 hours) to 4 hours, depending on the respondent and type of instrument, as shown in the table below.

Estimated Total Annual Burden on Respondents: 3184.48 hours.

ANNUAL BURDEN ESTIMATE

Response category	Estimated number of respondents [a]	Estimated average number of hours per response [b]	Estimated total hours
State and District of Columbia SNAP Office Staff			
Survey	153	1.37	209.90
Telephone Interview	128	1.54	197.11
In-person Interview	55	1.55	85.17
Records Collection	153	1.35	206.49
Total	498	.....	698.67
Local and County SNAP Officials			
Survey	350	1.80	630.06
Telephone Interview	300	1.55	465.03
In-person Interview	90	0.63	56.67
Records Collection	300	2.02	607.01
Total	1,040	.....	1,758.77
SNAP Partners			
Telephone Interview	264	0.77	201.99
In-person Interview	30	1.04	31.34
Records Collection	244	2.02	493.17
Total	538	.....	727.04
Grand Total	2,076	.....	3,184.48

[a] For this collection, the estimated number of respondents and total annual responses are the same, as all data collection will occur within the span of one year. While respondents will be invited to submit no more than one response in each response category (responses annually per respondent is equal to one for each category), individual respondents may be involved in more than one aspect of this collection (so, some respondents may participate in both the survey and the in-person interview).

[b] This average includes time burden incurred by nonresponders for reviewing the invitation to participate in the collection and informational materials as well as time that responders spend submitting information under each category.

Dated: September 16, 2009.

Julia Paradis,

Administrator, Food and Nutrition Service.

[FR Doc. E9–23123 Filed 9–23–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Forms FNS–806–A, Claim for Reimbursement (National School Lunch and School Breakfast Programs), and FNS–806–B, Claim for Reimbursement (Special Milk Program for Children)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed information collections. The Food and Nutrition Service (FNS) uses the Claims for Reimbursement, FNS–806–A and FNS–806–B, to collect data to determine the amount of reimbursement school food authorities participating in the National School Lunch Program (NSLP), OMB Number 0584–0006 Expiration May 31, 2012, School Breakfast Program (SBP), OMB Number 0584–0012 Expiration May 31, 2012, and Special Milk Program for

Children (SMP), OMB Number 0584–0005 Expiration May 31, 2012 are eligible to receive.

The proposed collections are an extension of a currently approved collection for the FNS–806–A and FNS–806–B.

DATES: Written comments must be submitted by November 23, 2009.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Mrs. Lynn Rodgers-Kuperman, Chief, Program Analysis and Monitoring Branch, Child and Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302. Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov*, and follow the online instructions for submitting comments electronically.

All written comment(s) will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302.

All responses to this notice will be summarized and included in the request for OMB approval and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Request for additional information should be directed to Mrs. Lynn Rodgers-Kuperman at (703) 305–2590.

SUPPLEMENTARY INFORMATION:

Title: Monthly Claims for Reimbursement.

OMB Number: 0584–0284.

Expiration Date: February 28, 2010.

Type of Request: Revision of a currently approved information collection.

Abstract: The National School Lunch Program (NSLP) and School Breakfast Program (SBP), and School Milk Program (SMP) Claim for Reimbursement, Forms FNS–806–A and FNS–806–B, respectively, are used to collect meal and milk data from school food authorities whose participation in these programs are administered directly by the Food and Nutrition Service (FNS) Regional Offices (Regional Office Administered Programs, or ROAP). The FNS Regional Office directly administers the NSLP, SMP, and/or SBP programs in Virginia, Georgia, and Colorado. In order to determine the amount of reimbursement for meals and milk served, the school food authorities are required to complete these forms. The completed forms are either sent to the Child Nutrition Payments Center at the FNS Mid-Atlantic Regional Office where they are entered into a computerized payment system or submitted electronically via the Internet directly into the Child Nutrition Payments Center. The payment system computes earned reimbursement. Earned reimbursement in the NSLP, SBP and SMP is based on performance that is measured as an assigned rate per meal or half pint of milk served. To fulfill the earned reimbursement requirements set forth in NSLP, SBP and SMP regulations issued by the Secretary of Agriculture (7 CFR 210.8 and 220.11; and 215.10), the meal and milk data must be collected on Forms FNS–806–A and FNS–806–B, respectively. These forms are an intrinsic part of the accounting system currently being used by the subject programs to ensure proper reimbursement.

Respondents: The respondents are State and local governments participating in the NSLP, SBP and SMP under the auspices of the FNS ROAP.

FNS 806–A

Estimated Number of Respondents: 273.

Estimated Number of Responses per Respondent: 12.

Estimated Hours per Response: 1.5.

Estimated Annual Burden Hours: 4,914.

FNS 806–B

Estimated Number of Respondents: 273.

Estimated Number of Responses per Respondent: 12.

Estimated Hours per Response: .5.

Estimated Annual Burden Hours: 1,638.

Total Estimated Burden for Reporting: 6,552.

Dated: September 15, 2009.

Julia Paradis,

Administrator, Food and Nutrition Service.

[FR Doc. E9–23048 Filed 9–23–09; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2009–0005]

Notice of Determination of the Highly Pathogenic Avian Influenza Subtype H5N1 Status of Hungary

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination regarding the highly pathogenic avian influenza (HPAI) subtype H5N1 status of Hungary following outbreaks in 2006 and 2007. Based on our evaluation of the animal health status of two counties (Bács-Kiskun and Csongrád) in Hungary, which we made available to the public for review and comment through a previous notice, the Administrator has determined that the importation of live birds, poultry carcasses, parts or products of poultry carcasses, and eggs (other than hatching eggs) of poultry, game birds, and other birds from Hungary presents a low risk of introducing HPAI H5N1 into the United States.

DATES: *Effective Date:* This determination will be effective on October 9, 2009.

FOR FURTHER INFORMATION CONTACT: Mr. Javier Vargas, Case Manager, Regionalization Evaluation Services Staff, National Center for Import and Export, VS, APHIS, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; (301) 734–0756.

SUPPLEMENTARY INFORMATION:

Background

On June 15, 2009, we published in the **Federal Register** (74 FR 28217–28218) a notice 1A[1] in which we announced the availability for review and comment of an evaluation of the animal health status of two counties (Bács-Kiskun and Csongrád) in Hungary relative to highly pathogenic avian influenza (HPAI) subtype H5N1. In the evaluation, titled ''APHIS' Evaluation of the Status of High Pathogenicity Avian Influenza H5N1 Virus in Hungary'' (November 2008), we presented the results of our evaluation of the prevalence of HPAI H5N1 in domestic poultry in the two counties in light of the actions taken by Hungary's Department for Food Chain Safety and Animal Health (DFCSAH) during and since the outbreaks of HPAI

[1] To view the notice and the evaluation, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0005.*

H5N1 that occurred in these two counties in 2006 and 2007.

Our evaluation concluded that both counties (Bács-Kiskun and Csongrád) had adequate detection and control measures in place at the time of the outbreaks, that they have been able to effectively control and eradicate HPAI H5N1 in their domestic poultry populations since that time, and that Hungary's DFCSAH has control measures in place to rapidly identify, control, and eradicate the disease should it be reintroduced into Hungary in either wild birds or domestic poultry.

In our June 2009 notice we stated that if, after the end of the comment period, we could identify no additional risk factors that would indicate that domestic poultry in Bács-Kiskun and Csongrád Counties continue to be affected with HPAI H5N1, we would conclude that the importation of live birds, poultry carcasses, parts of carcasses, and eggs (other than hatching eggs) of poultry, game birds, or other birds from Hungary presents a low risk of introducing HPAI H5N1 into the United States.

We solicited comments on the notice for 30 days ending on July 15, 2009. We received no comments during the comment period.

Therefore, we are removing our prohibition on the importation of these products from Hungary into the United States. Specifically:

- We are no longer requiring that processed poultry products from Hungary be accompanied by a Veterinary Services import permit and government certification confirming that the products have been treated according to APHIS requirements;

- We are allowing unprocessed poultry products from Hungary to enter the United States in passenger luggage; and

- We are removing restrictions regarding the counties (Bács-Kiskun and Csongrád) in Hungary from which processed poultry products may originate in order to be allowed entry into the United States in passenger luggage.

However, live birds from Bács-Kiskun and Csongrád Counties in Hungary are still subject to the port-of-entry inspections and post-importation quarantines set forth in 9 CFR part 93, unless granted an exemption by the Administrator or destined for diagnostic purposes and accompanied by a limited permit.

Done in Washington, DC, this 18th day of September 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–23129 Filed 9–23–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Plumas National Forest; California; Flea Project (Renamed Concow Hazardous Fuels Reduction Project)

AGENCY: Forest Service, USDA.

ACTION: Corrected notice of intent to prepare an environmental impact statement.

SUMMARY: With the decline of forestland density reduction treatments, overcrowded conditions have increased, forestland diversity has declined, California's wildfires have gotten larger, firefighting costs have skyrocketed, and resource and property damage have increased. In 2008, the Butte Lightning Complex burned about 6,190 acres within the 8,170 acre Concow Project Area.

In response, the USDA Forest Service, Feather River District Ranger of the Plumas National Forest, 875 Mitchell Avenue, Oroville, CA 95965, and the USDI Bureau of Land Management, Northern California Redding Field Office Manager, 355 Hemsted Drive, Redding, CA 96002, are cooperating to prepare the Concow Hazardous Fuels Reduction Project Environmental impact Statement. The USDA, Forest Service. Feather River Ranger District of the Plumas National Forest is the lead agency preparing a draft EIS on a proposal to establish, develop and maintain an irregularly shaped network of up to ½ mile wide Defensible Fuels Profile Zones (DFPZs) on USDA Forest Service (1,478 acres) and USDI Bureau of Land Management (32 acres) administered land, within the Wildiand Urban Interface. The Concow Project aims to establish Defensible Fuels Profile Zones (DFPZs), implement forestland density reduction treatments and post-fire dead and dying hazardous tree removal, while simultaneously improving local economic health by employing area workers. The DFPZs would be located within and west of the 2008 Butte Lightning Complex Fire perimeter, designed to improve the capacity of effective, traditional approaches to fire suppression and fire-fighting readiness, along with facilitating private land efforts. DFPZs would connect existing and proposed Federal and private land fuel breaks and parallel residential evacuation routes and primary fire suppression access routes. Additionally, treatments would integrate the enhancement of degraded oak woodlands and reforestation of fire-damaged plantations.

DATES: Comments concerning the scope of the analysis must be received within 45 days from the date of publication in the **Federal Register**. The draft environmental impact statement is expected November 2009 and the fmal environmental impact statement is expected January 2010.

ADDRESSES: Send written comments to the USDA Forest Service, Feather River Ranger District, 875 Mitchell Avenue, Oroville, CA 95965. Comments may also be sent via e-mail to *cspinos@fs.fed.us,* electronically mailed to *comments-pacificsouthwest-plumas@fs.fed.us* or via facsimile to (530) 532–1210.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however.

FOR FURTHER INFORMATION CONTACT: Carol Spinos, Interdisciplinary Team Leader at (530) 534–6500 or (530) 532–8932.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: A notice of intent to prepare an EIS for the Flea Project, designed to fulfill the Herger Feinstein Quincy Library Group Forest Recovery Act of 1988, was published in the **Federal Register** on Thursday, August 30, 2007 (Vol. 72, No.168, pp. 50096–50098). In June, 2008, a series of lightning strikes ignited numerous forest fires, which over several months merged, burning through the central and eastern portions of the Flea Project Area. This complex of fires, subsequently referred to as the Butte Lightning Complex, dramatically changed the landscape for the long-term. In September 2008, the Feather River Ranger District, of the Plumas National Forest, began the process to determine

the scope (the depth and breadth) of the 2008 wildfire disturbance on the environment. At that time, the draft Flea Project EIS was being prepared. In December 2008, after field reconnaissance was completed, the Forest Service, Plumas National Forest, determined to divide the Flea Project Area into two individual management units and projects. The westerly, unburned portion and the fire damaged, central portion of the Flea Project Area, located alongside communities in the Wildland Urban Interface, to be documented in one EIS. A draft EIS will be prepared with a modified purpose and need; renamed the Concow Hazardous Fuels Reduction Project. The easterly portion of the Flea Project Area, affected by predominantly low severity wildfire, is to be deferred.

The portion of the proposed action located on USDA Forest Service administered land is designed to meet the standards and guidelines for land management activities in the Plumas National Forest Land and Resource Management Plan (1988), as amended by the Herger-Feinstein Quincy Library Group (FIFQLG) Final Supplemental Environmental Impact Statement (FSEIS) and Record of Decision (ROD) (1999, 2003), legislatively extended from 2009 to 2012, per the Consolidated Appropriations Act (HR 2754), as amended by the Sierra Nevada Forest Plan Amendment FSEIS and ROD (2004). Additionally, in December 2007, the Consolidated Appropriations Act, 2008 (H.R. 2764), stated that the 2003-adopted Healthy Forests Restoration Act (HFRA: Public Law 108–148) applies to HFQLG projects.

The Healthy Forests Restoration Act (HFRA) of 2003 (16 U.S.C. at 1611–6591) emphasizes public collaboration processes for developing and implementing hazardous fuel reduction projects on certain types of ''at-risk'' National Forest System Land, and also provides other authorities and direction to help restore healthy forests.

The portion of the proposed action located on USDI Bureau of Land Management administered land is designed to meet the standards and guidelines for land management activities in the Redding Resource Management Plan (1993). Purpose and Need for Action The USDA Forest Service and USDI Bureau of Land Management propose to: (1) Reduce risk to rural communities from high intensity wildfires; (2) establish and maintain Defensive Fuel Profile Zones (DFPZs), linking Federal and private land, to further collaborative fire prevention and suppression efforts to improve the capability to control and contain wildfire; (3) restore recent fire-damaged forests to promote forest health and wildlife habitat diversity; and (4) contribute to the stability and economic health of local communities.

The presence of overcrowded forests and fire-damaged vegetation would sustain high intensity fire behavior, in the event of ignition. High concentrations of forest, woody, standing and ground hazardous fuels, particularly adjacent to homes, challenge fire suppression tactics aimed at controlling and containing wildfire. Hazardous fuels need to be removed and/or rearranged to reduce threats to communities at a high risk to destructive wildfire. Additionally, wildfire disturbance has functioned to shift species composition, simplify vegetative structure and reduce age-class diversity. Post-fire re-growth in oak dominated ecosystems have become overcrowded, choking migratory routes for various wildlife species. Wildfire also destroyed plantations, which are now under-stocked.

The project would reduce tree densities in overcrowded forests, remove dead and dying scorched trees, and reduce surface hazardous fuels to establish DFPZs up to ½ mile wide within the Wildland Urban Interface, beginning in 2010. Roadside danger trees that pose a safety hazard to the public along access routes would also be removed. Fire-damaged plantations would be re-planted during the initial entry. Two maintenance treatments would occur over a 10 year period. The project is located in all or portions of sections 2, 12, 24, T23N, R3E; 6, 18, 30, 32. 34, 36, T23N, R4E; 2, 12, 14, 22, T22N, R4E; in Butte County, California.

Proposed Action

The proposed action would initially establish DFPZs by reducing hazardous ladder and canopy fuels by applying a combination of thinning-from-below and radial release on 217 acres in the unburned areas. Dead and dying tree removal would occur on 320 acres in areas burned in 2008. Surface fuels in burned and unburned areas would be treated by applying mastication on 671 acres, chipping on 385 acres, lopping and scattering on 118 acres, hand cutting, hand-piling and pile burning on 666 acres, and prescribed under burning treatments on 117 acres. Defensible Fuels Profile Zones would be maintained by applying mastication on 671 acres, lopping and scattering on 118 acres, hand-cutting, hand-piling and pile burning on 666 acres, and prescribed under burning of surface fuels treatments on 468 acres, from 2 to 5 years after the initial treatments, depending on site conditions. Similar secondary maintenance treatments would be applied from 7 to 9 years after the initial treatments, depending on site conditions. Within unburned areas canopy cover would be reduced to approximately 40 to 50 percent in the California Wildlife Habitat Relationships (CWHR) system Size Class 4 stands (trees 11–24 inches diameter at breast height [dbh]) and Size Class 5 stands (greater than 24 inches dbh), where it presently exceeds that amount. Conifers ranging from 9.0 to 29.9 inches dbh would be removed as necessary and processed as sawlogs. Harvested hardwoods less than 6 inches dbh, and conifers 3.0 to 8.9 inches dbh are considered biomass and would be piled and burned or removed from units and processed at appropriate facilities. All trees 30 inches dbh or larger would be retained, unless removal is required for operability (*e.g.,* new skid trails, landings, or temporary roads). Residual spacing of conifers would be a mosaic of even and clumpy spacing depending on the characteristics of each stand prior to implementation. CWHR Size Class 3 stands (averaging 6–11 inches dbh) and plantations would not have any canopy cover restrictions and would be thinned to residual spacing of approximately 18 to 22 feet (±25 percent), depending on average residual tree size and forest health conditions, to allow retention of the healthiest, largest, and tallest 6 conifers and black oaks. Radial thinning or release will occur around large diameter black oak and the healthiest growing sugar pine, or ponderosa pine >24 inches in diameter on a per acre basis. Radial thinning would correlate to tree DBH. All mechanized thinning and biomass removal in DFPZ units would be conducted with feller buncher equipment. Shrubs would be masticated, as would trees less than 9 inches dbh unless needed for proper canopy cover and spacing. Equipment restriction zone widths within Riparian Habitat Conservation Areas (RHCAs) would range from 25–150 feet, depending on environmental conditions. Hand cutting and pile burning would be used to reduce fuels in RHCAs and other areas where mechanical equipment is not allowed. In burned areas, dead trees with commercial value greater than 20 inches in diameter in excess of wildlife needs will be removed utilizing helicopter and/or ground based logging systems. Dead non-merchantable trees 12 to 19.9 inches will be removed and disposed of by one of the following ways; chipped, incinerated or as firewood. Shrubs would be masticated, as would trees up

to 12 inches in diameter. In units with limited accessibility, trees up to 19.9 inches will be masticated. Black oak stump sprouts will be left untreated at an approximate spacing of 18–25 feet, with mastication in between. Fire-injured trees may be removed in order to meet post-fire fuels and operational objectives. Snags would be retained in snag retention areas, and in treatment areas at a minimum of 2 snags per acre and up to 4 snags per acre (exception is along the Rim Road, where either all snags would be removed or up to 2 snags per acre would be retained). Approximately 30 acres would be required for log and biomass landing activities. No new road construction would be required. Approximately 56 acres of fire-damaged plantations would be reforested and 40 acres of ''spot planting'' with conifer seedlings would occur in widely spaced clusters to emulate a naturally established forest. The areas would be reforested with a mixture of native species. In both burned and unburned areas, manual cutting of shrubs, trees 1 to 9 inches dbh, and/or thinning aggregations of 1 to 9 inches dbh conifers or plantation trees would occur.

Possible Alternatives

In addition to the proposed action, two other alternatives would be analyzed, a no action alternative (alternative A), and an action alternative consistent with the 2001 SNFPA ROD (alternative C).

Lead and Cooperating Agencies

The USDA, Forest Service is the lead agency for this proposal. The USDI, Bureau of Land Management is a cooperating agency for the purpose of this EIS.

Responsible Official

USDA Forest Service, Feather River District Ranger of the Plumas National Forest and the USDI Bureau of Land Management, Northern California Redding Field Manager are the Responsible Officials.

Nature of Decision To Be Made

The decision to be made is whether to: (1) Implement the proposed action; (2) meet the purpose and need for action through some other combination of activities; or, (3) take no action at this time.

Preliminary Issues

The proposed action may increase adverse effects to water and other aquatic dependent resources in municipal watersheds, already considered highly disturbed. Specifically, implementing ground-disturbing activities in watersheds that are already over the threshold of concern may increase the risk of adverse and cumulative watershed effects. The proposed action may increase adverse cumulative loss of snag (post-fire dead tree) habitat, already depleted over roughly 8,000 acres in surrounding areas, along with the species that are dependent on them for nesting and roosting.

Permits or Licenses Required

An Air Pollution Permit and a Smoke Management Plan are required by local agencies.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. A public field trip will be held on October 10, 2009, starting at 9 a.m, leaving from the Pines Yankee Hill Hardware Store, 11 300A Highway 70, Oroville, CA 95965.

It is important that reviewers provide their comments at such times and in such a manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative appeal or judicial review.

Dated: September 14, 2009.

Karen L. Hayden,

Feather River District Ranger.

[FR Doc. E9–22952 Filed 9–23–09; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Limitations of Duty- and Quota-Free Imports of Apparel Articles Assembled in Beneficiary Sub-Saharan African Countries From Regional and Third-Country Fabric

September 21, 2009.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Publishing the New 12-Month Cap on Duty- and Quota-Free Benefits.

EFFECTIVE DATE: October 1, 2009.

FOR FURTHER INFORMATION CONTACT: Don Niewiaroski, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

Authority: Title I, Section 112(b)(3) of the Trade and Development Act of 2000 (TDA 2000), P.L. 106-200, as amended by Division B, Title XXI, section 3108 of the Trade Act of 2002, P.L. 107-210; Section 7(b)(2) of the AGOA Acceleration Act of 2004, P.L. 108-274; Division D, Title VI, section 6002 of the Tax Relief and Health Care Act of 2006 (TRHCA 2006), P.L. 109-432; Presidential Proclamation 7350 of October 2, 2000 (65 FR 59321); Presidential Proclamation 7626 of November 13, 2002 (67 FR 69459).

Title I of TDA 2000 provides for duty- and quota-free treatment for certain textile and apparel articles imported from designated beneficiary sub-Saharan African countries. Section 112(b)(3) of TDA 2000 provides duty- and quota-free treatment for apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary countries from yarn originating in the U.S. or one or more beneficiary countries. This preferential treatment is also available for apparel articles assembled in one or more lesser-developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric used to make such articles, subject to quantitative limitation. Title VI of the TRHCA 2006 extended this special rule for lesser-developed countries through September 30, 2012.

The AGOA Acceleration Act of 2004 provides that the quantitative limitation for the twelve-month period beginning October 1, 2009 will be an amount not to exceed 7 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. See Section 112(b)(3)(A)(ii)(I) of TDA 2000, as amended by Section 7(b)(2)(B) of the AGOA Acceleration Act of 2004. Of this overall amount, apparel imported under the special rule for lesser-developed countries is limited to an amount not to exceed 3.5 percent of all apparel articles imported into the United States in the preceding 12-month period. See Section 112(b)(3)(B)(ii)(II) of TDA 2000, as amended by Section 6002(a) of TRHCA 2006. Presidential Proclamation 7350 of October 2, 2000 directed CITA to publish the aggregate quantity of imports allowed during each 12-month period in the **Federal Register**.

For the one-year period, beginning on October 1, 2009, and extending through September 30, 2010, the aggregate quantity of imports eligible for preferential treatment under these

provisions is 1,628,793,037 square meters equivalent. Of this amount, 814,396,518 square meters equivalent is available to apparel articles imported under the special rule for lesser-developed countries. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

These quantities are calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC.

Kimberly Glas,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E9–23118 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Invention Promoters/Promotion Firms Complaints.

Form Number(s): PTO/SB/2048.

Agency Approval Number: 0651–0044.

Type of Request: Revision of a currently approved collection.

Burden: 38 hours annually.

Number of Respondents: 100 responses per year.

Avg. Hours per Response: The USPTO estimates that it will take the public approximately 15 minutes (0.25 hours) to gather the necessary information, prepare the form, and submit a complaint to the USPTO and approximately 30 minutes (0.5 hours) for an invention promoter or promotion firm to prepare and submit a response to a complaint.

Needs and Uses: The Inventors' Rights Act of 1999 requires the USPTO to provide a forum for the publication of complaints concerning invention promoters and responses from the invention promoters to these complaints. An individual may submit a complaint to the USPTO, which will then forward the complaint to the identified invention promoter for response. The complaints and responses are published on the USPTO Web site. The public uses this information collection to submit a complaint to the USPTO regarding an invention promoter or to respond to a complaint. The USPTO uses this information to comply with its statutory duty to publish the complaint along with any response from the invention promoter. The USPTO does not investigate these complaints or participate in any legal proceedings against invention promoters or promotion firms.

Affected Public: Individuals or households, businesses or other for-profits, and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas A. Fraser, e-mail: *Nicholas_A._Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through the Information Collection Review page at *http://www.reginfo.gov.*

Paper copies can be obtained by:

- *E-mail: Susan.Fawcett@uspto.gov.* Include ''0651–0044 Invention Promoters Complaints copy request'' in the subject line of the message.
- *Fax:* 571–273–0112, marked to the attention of Susan K. Fawcett.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Administrative Management Group, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Written comments and recommendations for the proposed information collection should be sent on or before October 26, 2009 to Nicholas A. Fraser, OMB Desk Officer, via e-mail at *Nicholas_A._Fraser@omb.eop.gov,* or by fax to 202–395–5167, marked to the attention of Nicholas A. Fraser.

Dated: September 17, 2009.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer, Administrative Management Group.

[FR Doc. E9–23033 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–421–811)

Purified Carboxymethylcellulose From the Netherlands; Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Patrick Edwards, Brian Davis, or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8029, (202) 482–7924, or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from the Netherlands on August 26, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 73 FR 50308 (August 26, 2008).[1] On May 26, 2009, the Department published the preliminary results of the administrative review of the antidumping duty order covering purified CMC from the Netherlands. *See Purified Carboxymethylcellulose from the Netherlands; Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 24823 (May 26, 2009) (*Preliminary Results*). In the *Preliminary Results*, we invited parties to comment. In response, CP Kelco submitted a case brief and a request for a public hearing on June 26, 2009. *See* Case Brief from Arent Fox LLP (counsel for respondent) titled ''Purified Carboxymethylcellulose from the Netherlands; Case Brief of CP Kelco B.V.,'' dated June 26, 2009 (Case Brief). Petitioner submitted comments on June 30, 2009. *See* Letter from Haynes & Boone, LLP (counsel for petitioner), titled ''Comment by Petitioner Aqualon Company in Lieu of

[1] On October 9, and October 10, 2008, respectively, Akzo Nobel Functional Chemicals B.V. (Akzo Nobel) and the Aqualon Company, a division of Hercules, Incorporated (petitioner), withdrew their requests for review of Akzo Nobel's sales of merchandise covered by the order. Therefore, the Department rescinded the review with respect to Akzo Nobel. *See Purified Carboxymethylcellulose from the Netherlands: Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 66841 (November 12, 2008).

Reply Brief,'' dated June 30, 2009. CP Kelco subsequently contacted officials at the Department and withdrew its request for a public hearing. *See* CP Kelco's ''Withdrawal of Hearing Request,'' dated July 2, 2009. In lieu of a public hearing, counsel for respondent requested a meeting with Department officials. See the Memorandum to the File, titled ''Administrative Review of the Antidumping Duty Order on Purified Carboxymethylcellulose from the Netherlands: Meeting with Counsel for Respondent,'' dated July 15, 2009. The current deadline for the final results of this review is September 23, 2009.

Extension of Time Limits for Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to complete the final results of an administrative review within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 120 day time period for the final results to 180 days.

The Department has determined it is not practicable to complete this administrative review within the statutory time limit because the Department requires additional time to fully evaluate the comments put forth by CP Kelco, particularly the extensive comments concerning the nature of reported factoring expenses. Accordingly, the Department is extending the time limit for completion of the final results of this administrative review until no later than October 7, 2009, which is 134 days after the date on which the preliminary results of review were published.

This extension is issued and published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: September 18, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–23115 Filed 9–23–09; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–836]

Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Administrative Review in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 24, 2009, in response to a request from interested parties, the Department of Commerce (the Department) published a notice of initiation of the administrative review of the antidumping duty order on certain cut-to-length carbon-quality steel plate (CTL plate) from the Republic of Korea (Korea). The review covers four manufacturers/exporters. The period of review is February 1, 2008, through January 31, 2009. We have preliminarily determined that sales have been made below normal value by certain companies subject to this review. We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument a statement of the issue and a brief summary of the argument.

DATES: *Effective Date:* September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5760 and (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 10, 2000, the Department published in the **Federal Register** the antidumping duty order on CTL plate from Korea. *See Notice of Amendment of Final Determinations of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-To-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and the Republic of Korea,* 65 FR 6585 (February 10, 2000). On February 4, 2009, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on CTL plate from Korea. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 74 FR 6013 (February 4, 2009). On February 27, 2009, pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Dongkuk Steel Mill Co., Ltd. (DSM), requested that the Department review its sales of subject merchandise from Korea and Nucor Corporation, the domestic interested party in this review, requested that the Department review the sales of subject merchandise from Korea produced or exported by Daewoo International Corporation (Daewoo), Hyosung Corporation (Hyosung), Hyundai Mipo Dockyard Co., Ltd. (Hyundai Mipo), and JeongWoo Industrial Machine Co., Ltd. (JeongWoo), during the period of review. On March 24, 2009, in accordance with 19 CFR 351.221(c)(1)(i), the Department initiated the administrative review of the antidumping duty order on CTL plate from Korea produced and/or exported by DSM, Daewoo, Hyosung, Hyundai Mipo, and JeongWoo for the period of review. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 74 FR 12310, 12312 (March 24, 2009).

On April 1, 2009, for purposes of selecting respondents in this review, we released the data we obtained from U.S. Customs and Border Protection (CBP) on March 16, 2009, for this review to interested parties which have access to business-proprietary information under the Administrative Protective Order. *See* the April 1, 2009, memorandum to the File entitled ''Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: CBP Data'' (CBP Data Memo). On April 8, 2009, DSM withdrew its request that the Department review its sales of subject merchandise. On May 7, 2009, we issued a quantity-and-value questionnaire to Daewoo, Hyosung, Hyundai Mipo, and JeongWoo. *See* the May 12, 2009, memorandum to the File entitled ''Certain Cut-to-Length Carbon Quality Steel Plate from the Republic of Korea: Release of Quantity-and-Value Questionnaire'' (Q&V Release Memo). On June 5, 2009, we rescinded the review in part with respect to CTL plate from Korea produced and/or exported by DSM. *See Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Partial Rescission of Antidumping Duty Administrative Review,* 74 FR 27015 (June 5, 2009).

Scope of the Order

The products covered by the antidumping duty order are certain hot-rolled carbon-quality steel: (1) Universal

mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to length (not in coils) and without patterns in relief), of iron or non-alloy quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products included in the scope of the order are of rectangular, square, circular, or other shape and of rectangular or non-rectangular cross section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.,* products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished, or coated with plastic or other non-metallic substances are included within the scope. Also, specifically included in the scope of the order are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products included in the scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of the order unless otherwise specifically excluded. The following products are specifically excluded from the order: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.,* USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

Imports of steel plate are currently classified in the HTSUS under subheadings 7208.40.30.30, 7208.40.30.60, 7208.51.00.30, 7208.51.00.45, 7208.51.00.60, 7208.52.00.00, 7208.53.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.13.00.00, 7211.14.00.30, 7211.14.00.45, 7211.90.00.00, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00, 7225.40.30.50, 7225.40.70.00, 7225.50.60.00, 7225.99.00.90, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the merchandise covered by the order is dispositive.

Intent To Rescind in Part

In accordance with 19 CFR 351.213(d)(3), we will rescind an administrative review in part if we conclude that there were no exports of subject merchandise during the period of review. On May 20, 2009, Daewoo submitted a letter stating that it had no shipments of subject merchandise during the period of review. Daewoo's claim of no shipments is consistent with CBP data on the record of the review. *See* CBP Data Memo. Further, we have received no comments on Daewoo's May 20, 2009, submission. Because we preliminarily find that Daewoo had no shipments of subject merchandise during the period of review, we intend to rescind the administrative review with respect to Daewoo. If we continue to find at the time of our final results that Daewoo had no shipments of CTL plate from Korea, we will rescind the administrative review with respect to Daewoo.

Use of Adverse Facts Available

For the reasons discussed below, we determine that the use of adverse facts available is appropriate for the preliminary results with respect to Hyosung, Hyundai Mipo, and JeongWoo.

A. Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the Department shall use facts otherwise available in reaching the applicable determination.

On May 7, 2009, we transmitted our questionnaire to Hyosung, Hyundai Mipo, and JeongWoo via Federal Express. We confirmed that Hyundai Mipo and JeongWoo signed for and received the questionnaire on May 11, 2009, and Hyosung signed for and received the questionnaire on May 12, 2009. *See* Q&V Release Memo. The due date for the responses to our questionnaire was May 18, 2009. The Department never received a response from Hyosung, Hyundai Mipo, or JeongWoo.

Because Hyosung, Hyundai Mipo, and JeongWoo did not provide their responses to the Department's questionnaire, Hyosung, Hyundai Mipo, and JeongWoo failed to provide any information to the Department within the meaning of section 776(a)(2) of the Act. As a result, we are unable to calculate margins for Hyosung, Hyundai Mipo, and JeongWoo and, therefore, must rely entirely on facts available.

B. Application of Adverse Inferences for Facts Available

In selecting among the facts otherwise available, section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use an inference adverse to the interests of that party. In addition, the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. 103–316, Vol. 1, 103d Cong. (1994), reprinted in 1994 U.S.C.C.A.N. 4040 (SAA), establishes that the Department may employ an adverse inference ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870. The SAA also instructs the Department to consider, in employing adverse inferences, ''the extent to which a party may benefit from its own lack of cooperation.'' Id. Moreover, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27340 (May 19, 1997).

We find that, by failing completely to respond to our questionnaire, Hyosung, Hyundai Mipo, and JeongWoo withheld requested information and thus failed to cooperate to the best of their abilities. Therefore, we find it appropriate to use an inference that is adverse to these companies' interests in selecting from among the facts otherwise available. By doing so, we ensure that these companies will not obtain a more favorable rate by failing to cooperate than had they cooperated fully.

C. Selection of Information Used as Facts Available

Where the Department applies an adverse facts-available rate because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See* also 19 CFR 351.308(c) and the SAA at 870.

For the preliminary results, we have selected 32.70 percent as the adverse facts-available dumping margin for Hyosung, Hyundai Mipo, and JeongWoo. This rate is the rate we assigned as adverse facts available to Tae Chang Steel Co., Ltd. (TC Steel), which failed to submit its response to our antidumping questionnaire in the administrative review of this proceeding for the period February 1, 2006, through January 31, 2007. *See Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Administrative Review in Part,* 72 FR 65701, 65702–03 (November 23, 2007) (*CTL Plate from Korea 2006–07 Prelim*), unchanged in *Certain Cut-to-Length Carbon-Quality Steel Plate Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part,* 73 FR 15132, 15133 (March 21, 2008) (*CTL Plate from Korea 2006–07 Final*) (collectively *CTL Plate from Korea 2006–07*). In *CTL Plate from Korea 2006–07,* the adverse facts-available rate of 32.70 percent which we assigned to TC Steel was the highest product-specific margin we had calculated based on data reported by a respondent. *See CTL Plate from Korea 2006–07 Prelim,* 72 FR at 65702–03, and *CTL Plate from Korea 2006–07 Final,* 73 FR at 15133. We have selected this rate because we have never reviewed Hyosung, Hyundai Mipo, and JeongWoo in a prior segment of this proceeding and we do not have any additional information about these three companies. *Id.* Moreover, we believe this rate is sufficiently high to ensure that Hyosung, Hyundai Mipo, and JeongWoo do not obtain a more favorable result by failing to cooperate.

D. Corroboration of Information

Section 776(c) of the Act provides that, when the Department relies on secondary information as facts available, it must corroborate, to the extent practicable, that information from independent sources that are reasonably at its disposal. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics, and customs data as well as information obtained from interested parties during the particular proceeding. *Id.*

To corroborate secondary information, to the extent practicable, the Department normally examines the reliability and relevance of the information to be used. *See, e.g., Ball Bearings and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews and Intent to Rescind Reviews in Part,* 73 FR 25654, 25657 (May 7, 2008), unchanged in *Ball Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008) (collectively *AFBs 18*). Unlike other types of information such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only sources for antidumping duty margins are administrative determinations. Thus, with respect to an administrative review, if the Department chooses to use as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. *See AFBs 18* and *Antifriction Bearings and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews, Partial Rescission of Administrative Reviews, Notice of Intent To Rescind Administrative Reviews, and Notice of Intent To Revoke Order in Part,* 69 FR 5949, 5953 (February 9, 2004), unchanged in *Antifriction Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part,* 69 FR 55574, 55576–77 (September 15, 2004).

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996), the Department disregarded the highest margin in that case as best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited or judicially invalidated. *See D & L Supply Co.* v. *United States,* 113 F.3d 1220, 1221 (CAFC 1997).

In this review, there are no circumstances present to indicate that the selected margin is not appropriate as adverse facts available. Moreover, there is no information on the record of this review that demonstrates that 32.70 percent, which we assigned to TC Steel as an adverse facts-available rate in *CTL Plate from Korea 2006–07,* is not an appropriate adverse facts-available rate for Hyosung, Hyundai Mipo, and JeongWoo. Because there are no calculated margins for any other respondents in this administrative review, we examined transaction-specific margins from the administrative review of the antidumping duty order on CTL plate from Korea for the period February 1, 2007, through January 31, 2008, and we found a number of transaction-specific margins in our calculation for DSM which were higher than 32.70 percent. *See* the September XX, 2009, memorandum to the File entitled ''Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: Placement on Record'' for details which contain DSM's business-proprietary information. With the information at our disposal for the corroboration of this adverse facts-available rate, we find that the rate of 32.70 percent is corroborated to the greatest extent practicable in accordance with section 776(c) of the Act.

Because we are making an adverse inference with regard to Hyosung, Hyundai Mipo, and JeongWoo based on the most recent information at our disposal, we preliminarily find that the

rate of 32.70 percent is a reasonable indication of the margins that Hyosung, Hyundai Mipo, and JeongWoo would have received on their U.S. transactions had they responded to our request for information. We preliminarily find that use of the rate of 32.70 percent as adverse facts available is sufficiently high to ensure that Hyosung, Hyundai Mipo, and JeongWoo do not benefit from failing to cooperate in our review by refusing to respond to our questionnaire. *See CTL Plate from Korea 2006–07 Final,* 73 FR at 15133.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the weighted-average dumping margins for CTL plate from Korea for the period February 1, 2008, through January 31, 2009, are as follows:

Company	Margin (percent)
Hyosung	32.70
Hyundai Mipo	32.70
JeongWoo	32.70

Disclosure and Public Comment

We will disclose the draft liquidation instructions to parties to this review within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. *See* 19 CFR 351.310. Interested parties who wish to request a hearing or to participate in a hearing if a hearing is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain the following: (1) The party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed.

Issues raised in the hearing will be limited to those raised in the case briefs. *See* 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. *See* 19 CFR 351.309(d)(1) and 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. *See* 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. *See* 19 CFR 351.309(c)(2). The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs, not later than 120 days after the date of publication of this notice. *See* section 751(a)(3)(A) of the Act.

Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. Because we are relying on total adverse facts available to establish the dumping margins for Hyosung, Hyundai Mipo, and JeongWoo, we intend to instruct CBP to apply a dumping margin of 32.70 percent to CTL plate from Korea that was produced and/or exported by Hyosung, Hyundai Mipo, and JeongWoo and entered, or withdrawn from warehouse, for consumption during the period of review.

The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of the final results of review.

Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of steel plate from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash-deposit rates for Hyosung, Hyundai Mipo, and JeongWoo will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be 0.98 percent,[1] the all-others rate established in the less-than-fair-value investigation, adjusted for the export-subsidy rate in the companion countervailing duty investigation. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the period of review. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: September 18, 2009.

Carole A. Showers,

Acting Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. E9–23112 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See* the September XX, 2009, memorandum to the File entitled ''Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea: All-Others Cash-Deposit Rate'' for details on the calculation of this rate.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR53

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

AGENCY: Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS).

ACTION: Notification of a proposal for an EFP to conduct exempted fishing; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that the subject EFP application that was submitted by the Cornell Cooperative Extension of Suffolk County Marine Program (CCE) warrants further consideration and should be issued for public comment. The EFP would exempt participating vessels from summer flounder size restrictions and summer flounder mesh-size restrictions. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be

consistent with the goals and objectives of the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made.

DATES: Comments must be received on or before October 9, 2009.

ADDRESSES: Comments may be submitted by e-mail. The mailbox address for providing e-mail comments is *nero.efp@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: ''Comments on CCE Offshore Fluke Discard EFP.'' Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on CCE Offshore Fluke Discard EFP.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Sarah Bland, Fishery Management Specialist, (978) 281–9257.

SUPPLEMENTARY INFORMATION: A complete application for an EFP was submitted by CCE on August 31, 2009, for a study that would evaluate summer flounder discard mortality in the offshore winter trawl fishery off Long Island, NY. The EFP would be issued to an initial list of seven vessels.

Research trips would be conducted as normal fishing operations, modified only by standardized tow times and deck cull times, in the offshore winter trawl fishery off Long Island, NY. Research trips would occur south and east of Long Island, NY, between Veatch Canyon and Hudson Canyon, in statistical areas 616, 526, 537, 613, and 611. One to two trips would be made each month, beginning in October 2009, and continuing through April 2010, for a total of eight trips. Four trips would occur during normal fishing operations targeting *Loligo* squid using small-mesh gear, and four trips would target summer flounder using large-mesh gear. Trips are expected to take 2 days due to steaming time to and from winter fishing grounds; however, poor weather conditions may lengthen trip times.

For each trip, vessels would conduct three tows of 1, 2, and 3–hr durations. For each tow, two culls would be performed; an immediate cull and a delayed 30–min cull. Ten legal-sized summer flounder and 10 sub-legal sized summer flounder would be randomly collected from each cull, for a total of 20 fish per tow. If there are not 10 sub-legal sized summer flounder available, additional legal-sized summer flounder would be kept to maintain the random sampling at 20 fish per tow. Summer flounder would be randomly selected using sub-sampling and random sampling guidelines established by the NMFS At-Sea Observer Program. In addition to the random sample, 10 jumbo market category summer flounder (greater than 4 lb (1.81 kg) or 55 cm) would be collected per tow.

Summer flounder collected would be measured, weighed, and their physical condition noted. Fish would be tagged at the dorsal area of the eyed-side anterior of the caudal peduncle with a Floy-FD–94 Super Heavy Duty T-Bar Anchor Tag and transferred to an on-board holding tank. During the time it takes to clear the deck of catch, summer flounder would be sorted into live and dead components on set time intervals, in addition to immediate and delayed cull times. Information on tow duration, location, boat and gear specifics, fishing speed, total volume of the catch and discards, depth and surface water temperatures, and on-deck air temperature would be recorded. The applicant anticipates that catch species would include a mix of summer flounder, scup, black sea bass, butterfish, whiting, and *Loligo* squid.

Collected fish would be transported from the on-board holding tanks to the Multi Aquaculture Systems, Inc., facility. Fish would be monitored for a 14–day period. Any fish still alive after the monitoring period would be examined and ranked according to a health index, and blood would be drawn for cortisol analysis. These fish would then be released into Gardiners Bay from the holding facility. The applicant anticipates that, although fish would be released inshore during winter or early spring, some of these fish would survive. Scales and otoliths would be taken from those fish not surviving the monitoring period. Up to 180 fish would be landed for the extended mortality monitoring period, and the applicant anticipates the mortality rate would be between 75 and 90 percent.

The applicant has requested an exemption from the summer flounder size restrictions at § 648.103 to allow sub-legal sized fish to be retained for data collection purposes. The applicant has also requested an exemption from the summer flounder mesh size restrictions at § 648.104(a)(1) to allow vessels targeting squid in the small-mesh fishery to retain more than the incidental limit of summer flounder. In addition, the applicant requested an exemption from the summer flounder fishery closure restrictions at § 648.101(a) and (b) to allow summer flounder to be landed during a closure and transported to the Multi Aquaculture Systems facility for mortality observations. However, the regulations at § 648.12(a)(2) prevent NMFS from issuing an EFP that would cause a quota to be exceeded; therefore, unless research set-aside quota is made available to this project, no exemption from fishery closure restrictions would be granted.

The applicants may request minor modifications and extensions to the EFP throughout the course of research. EFP modifications and extensions may be granted without further public notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impacts of the initially approved EFP request.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2009.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23064 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR76

Marine Mammals; File No. 605–1904

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that the Whale Center of New England (WCNE), [Mason Weinrich, Principal Investigator], P.O. Box 159, Gloucester, MA 01930, has been issued an amendment to scientific research Permit No. 605–1904.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281–9300; fax (978)281–9333; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727)824–5312; fax (727)824–5309.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Kristy Beard, (301)713–2289.

SUPPLEMENTARY INFORMATION: On August 4, 2008, notice was published in the **Federal Register** (73 FR 45217) that an amendment to Permit No. 605–1904, issued February 21, 2008 (73 FR 10744), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 605–1904 authorizes the WCNE to harass humpback (*Megaptera novaengliae*), fin (*Balaenoptera physalus*), and sei (*Balaenoptera borealis*) whales along the U.S. Atlantic coast during close approaches for vessel surveys, photo-identification, tracking, and incidental harassment annually. During approaches, researchers may suction-cup tag and/or biopsy sample whales greater than six months of age. A subset of approached humpback and fin whale calves three to six months of age may also be biopsy sampled. This amendment authorizes the WCNE to harass up to 75 North Atlantic right whales (*Eubalaena glacialis*) annually during close vessel approaches for photo-identification, behavioral observation, and prey sampling. This work would continue long-term population monitoring to determine status and trends of this species in the North Atlantic. The amendment is valid until the permit expires on February 15, 2013.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment was prepared analyzing the effects of the permitted activities. After a Finding of No Significant Impact, the determination was made that it was not necessary to prepare an environmental impact statement.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 18, 2009.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–23065 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XR79

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council(s (Council) Habitat Committee and Habitat Advisory Panel will hold meetings to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meetings will be held in October, 2009. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meetings will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The advisory panel and committee meeting schedules and agendas are as follows:

1. Joint Habitat Committee and Advisory Panel Meeting - Tuesday, October 13, 2009 beginning at 9 a.m.

The committee and advisory panel will review Swept Area Seabed impact (SASI) model. They will also solicit Committee and Advisory Panel input on model components and discuss terms of reference for upcoming Scientific and Statistical Committee review of SASI. The Committee and Advisory Panel may also consider other topics at their discretion.

2. Habitat Committee Meeting - Wednesday, October 14, 2009 beginning at 9 a.m.

The Committee will discuss alternatives to minimize the effects of fishing on essential fish habitat (EFH) and will also review a timeline for completion of Omnibus EFH Amendment 2.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council(s intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**), at least 5 working days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 21, 2009.

William D. Chappell,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23019 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XR80

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene its Law Enforcement Advisory Panel (LEAP).

DATES: The meeting will convene at 1:30 p.m. on Tuesday, October 13, 2009 and conclude no later than 5 p.m.

ADDRESSES: The meeting will be held at the IP Casino Resort, 850 Bayview Ave., Biloxi, MS 39530.

Council address: Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Deputy Executive Director, Gulf of Mexico Fishery

Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico Fishery Management Council (Council) will convene the Law Enforcement Advisory Panel (LEAP) to review to discuss Joint Enforcement Agreements including cases made and federal training for state officers. The LEAP will also provide reports from each of the member agencies and review the Council's future action schedule. Finally, the LEAP will receive information on the status of fishery management plan amendments and other regulatory actions and elect a new chairman and vice chairman.

The LEAP consists of principal law enforcement officers in each of the Gulf States, as well as the National Oceanic and Atmospheric Administration (NOAA) Law Enforcement, U.S. Fish and Wildlife Service (FWS), the U.S. Coast Guard, and the NOAA General Counsel for Law Enforcement. A copy of the agenda and related materials can be obtained by calling the Council office at (813) 348–1630.

Although other non-emergency issues not on the agendas may come before the LEAP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions of the LEAP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Tina O'Hern at the Council (see **ADDRESSES**) 5 working days prior to the meeting.

Dated: September 21, 2009.

William D. Chappell,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23020 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XR81

Mid-Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council), its Executive Committee, its Law Enforcement Committee, its Protected Resources Committee, and its Surfclam and Ocean Quahog Committee will hold public meetings.

DATES: Tuesday, October 13, 2009 through Thursday, October 15, 2009. On Tuesday, October 13, the Executive Committee with the Council's Scientific and Statistical Committee (SSC) leadership and the Atlantic States Marine Fisheries Commission's (ASMFC) leadership will meet from 8:30 a.m. until 12:30 p.m. The Executive Committee with the Council's SSC leadership will meet from 1:30 p.m. until 4:30 p.m. On Wednesday, October 14 at 8:30 a.m., new Council members will be sworn into office and the Council will then elect its officers. From 8:45 a.m. until 11:30 a.m., the Council will convene to conduct its regular Business Session, receive Organizational Reports, Liaison Reports, the Executive Director's Report, and a report on the status of the Council's Fishery Management Plans (FMP's). From 12:30 p.m. until 1:30 p.m., the Council will review eligible sites for Marine Protected Area (MPA) designation and solicit public comments on such designations. The Law Enforcement Committee will meet from 1:30 p.m. until 2 p.m. The Protected Resources Committee will meet from 2 p.m. until 3 p.m. The Surfclam and Ocean Quahog Committee will meet from 3 p.m. until 4:30 p.m. On Thursday, October 15, the Executive Committee will meet from 8 a.m. until 9 a.m. The Council will convene at 9 a.m. until 10 a.m. for NOAA Catch Share Policy presentation. From 10 a.m. until 11:30 a.m. the Council will receive and discuss Committee reports. At 11:30 a.m., the Council will address continuing and new business.

ADDRESSES: Princess Royale Hotel, 9100 Coastal Highway, Ocean City, MD 21842; telephone: (410) 524–7777.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New St., Room 2115, Dover, DE 19904; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674–2331 ext. 19.

SUPPLEMENTARY INFORMATION: Agenda items by day for the Council's Committees and the Council itself are: On Tuesday, October 13—the Executive Committee with the Council's SSC leadership and the ASMFC's leadership will address roles and responsibilities of the Council's SSC and the Council's and Commission's Species Monitoring Committees (MC) for ''jointly managed species (these include: summer flounder, scup, black sea bass, bluefish, and dogfish), and clarify the responsibilities of the SSC and the respective MCs in terms of their respective roles in the Council's annual specification setting process. The Executive Committee with the Council's SSC leadership will address the development of a Council risk policy concerning National Standard 1 Guidelines regarding the Allowable Biological Catch (ABC) control rule. On Wednesday, October 14—new Council members will be sworn into office, the Council will elect Officers, conduct its regular Business Session, receive Organizational Reports, Council Liaison Reports, the Executive Director's Report, and a report on the status of the Council's FMPs. Following lunch there will be review of eligible sites for MPA designation and the public will be solicited for its comments about such designations. The Law Enforcement Committee will review the Fisheries Achievement Award (FAA) nominations and recommend recipient(s) for recognition. The Protected Resources Committee will review the outcome of the recent Bottlenose Dolphin (BND) Take Reduction Team meeting, review revisions to the BND stock structure and mortality estimates, and review the current information on all stocks and evaluate the BND Plan's goals for each stock. The Surfclam and Ocean Quahog Committee will review and clarify management measures to be included in Amendment 15. On Thursday, October 15—the Executive Committee will review the Council's 2010 Annual Work Plan (AWP), review highlights of the Northeast Regional Coordinating Council (NRCC) Meeting, and review the nominees for and select the recipient of the 2009 Ricks E Savage Award. The Council will then convene to receive a presentation on NOAA's Catch Share Policy by Monica Medina (NOAA's Catch Share Task Force

Chairperson). The Council will also receive and discuss Committee Reports and address under continuing business the need to clarify squid control dates regarding Amendment 14 to the Squid, Mackerel, and Butterfish FMP and any other continuing or new business.

Although non-emergency issues not contained in this agenda may come before the Council for discussion, these issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address such emergencies.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Bryan, (302) 674–2331 ext 18, at least 5 days prior to the meeting date.

Dated: September 21, 2009.

William D. Chappell,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E9–23054 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Notice of Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on Wednesday, November 4, 2009. The meeting will be from 1:00-4:30 p.m. Location: Training Room A, Trade Information Center, Ronald Reagan Building, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20004.

The Committee provides advice and guidance to Department officials on the identification and surmounting of barriers to the expansion of textile exports, and on methods of encouraging textile firms to participate in export expansion.

The Committee functions solely as an advisory body in accordance with the provisions of the Federal Advisory Committee Act.

The meeting will be open to the public with a limited number of seats available. For further information contact Kim-Bang Nguyen at (202) 482-4805 or Laurie Mease at (202) 482-2043. Minutes of all ETAC meetings are posted at otexa.ita.doc.gov.

Dated: September 18, 2009.

Kimberly Glas,

Deputy Assistant Secretary for Textiles and Apparel.

[FR Doc.E9–23120 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–904

Certain Activated Carbon from the People's Republic of China: Notice of Rescission of Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: September 24, 2009.

SUMMARY: On April 30, 2009, the Department of Commerce (''Department'') published a notice of initiation of changed circumstance review (''CCR'') of the antidumping duty order on certain activated carbon from the People's Republic of China (''PRC''). *See Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 74 FR 19934 (April 30, 2009) (''*Initiation*''). The Department is now rescinding this CCR because Hebei Foreign Trade and Advertising Corporation (''Hebei Foreign'') because the factual information upon which the Department relied in the initiation of this change circumstances review was later found to be false, and we find there was not a change in circumstances to warrant this review.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–7906.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2009, the Department received a request from Hebei Foreign[1] for an expedited CCR to find that Hebei Foreign has been succeeded by Hebei Shenglun, and therefore Hebei Shenglun should receive the separate rate assigned to Hebei Foreign in the case of certain activated carbon from the PRC.[2] On March 4, 2009, the Department received comments from Petitioners in opposition to the CCR, stating that Hebei Foreign's February 24, 2009, request for a CCR is nearly identical to the November 7, 2008, request, which the Department denied.[3]

On April 30, 2009, the Department published a notice of initiation of CCR of the antidumping duty order on certain activated carbon from the People's Republic of China. *See Initiation*. However, the Department found that Hebei Foreign did not provide complete supporting documentation or conclusive evidence that would allow the Department to expedite the CCR by combining the preliminary results of review with the notice of initiation as provided for in 19 CFR 351.221(c)(3)(ii). *See Initiation*.

On June 12, 2009, the Department issued a supplemental questionnaire to Hebei Foreign, and on July 6, 2009, Hebei Foreign submitted its response.[4] On July 9, 2009, the Department received comments from Petitioner[5] concerning Hebei Foreign's supplemental questionnaire response. Petitioners argue that Hebei Foreign's supplemental response demonstrates that there is no basis for continuing with a changed circumstances proceeding, and additionally that the Department should revoke Hebei Foreign's separate rate based on Hebei Foreign's alleged intentional misrepresentation of its operations and management.[6] Petitioners specifically reference statements submitted by Hebei Foreign that reveal that the managers listed in Hebei Foreign's response are not

[1] The Department received a similar CCR request from Hebei Foreign on November 7, 2008, and denied the request because the Department found that changed circumstances sufficient to warrant a review did not exist. *See* Letter from Hebei Foreign, to the Department, regarding Certain Activated Carbon from the People's Republic of China; Request for Changed Circumstances Review (November 7, 2008); *see also* Letter from the Department to Hebei Foreign, regarding Changed Circumstance Review: Certain Activated Carbon from the People's Republic of China (''PRC'') (December 8, 2008).

[2] *See* Letter from Hebei Foreign, to the Department, regarding Certain Activated Carbon from the People's Republic of China; Request for Changed Circumstances Review (February 24, 2009) (''Hebei Foreign's CCR Request'').

[3] *See* Letter from Petitioners to the Department, regarding Certain Activated Carbon from the People's Republic of China (March 4, 2009).

[4] *See* Letter from the Department to Hebei Foreign, regarding Changed Circumstance Review: Certain Activated Carbon from the People's Republic of China (''PRC'') (June 12, 2009); *also see* Letter from Hebei Foreign to the Department, regarding Certain Activated Carbon from the People's Republic of China; Supplemental Response of Hebei Foreign Trade and Advertising Corp. (July 6, 2009) (''Hebei Foreign's Supplemental Questionnaire Response'').

[5] Petitioners in this case are Calgon Carbon Corporation and Norit Americas Inc. (collectively, ''Petitioners'').

[6] *See* Letter from Petitioners to the Department, regarding Certain Activated Carbon from the People's Republic of China (July 9, 2009).

employees of Hebei Foreign, and that Wang Kezheng, who certified the responses, is not employed by Hebei Foreign. Additionally, Petitioners express concerns that Hebei Foreign is being used by Weng Kezheng and his business partner, Jiang Hua, as a ''front company'' to export subject merchandise to the United States under Hebei Foreign's separate rate.[7]

Scope of Changed Circumstances Review

The merchandise subject to this order is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by ''activating'' with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of this order covers all forms of activated carbon that are activated by steam or CO_2, regardless of the raw material, grade, mixture, additives, further washing or post–activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this order covers all physical forms of certain activated carbon, including powdered activated carbon (''PAC''), granular activated carbon (''GAC''), and pelletized activated carbon.

Excluded from the scope of the order are chemically activated carbons. The carbon–based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside this scope. This exclusion language regarding blended material applies *only* to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within this scope. The products subject to the order are currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 3802.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Rescission of Changed Circumstances Review

Based on information provided by Hebei Foreign in its original submission, the Department initiated a changed circumstance review. In its CCR request, Hebei Foreign stated that the complete transfer from Hebei Foreign to Hebei Shenglun was accomplished in November 2008. The Department determined that this constituted sufficient evidence to initiate this CCR to determine whether Hebei Shenglun is Hebei Foreign's successor–in-interest.[8] However, in its supplemental questionnaire response, Hebei Foreign clearly stated that it is still in operation, had recently shipped subject merchandise to the United States, and would continue to do so as Hebei Foreign.[9] Additionally, the Department notes that that Hebei Foreign's submissions and questionnaire response were certified by Wang Kezheng as the manager of the No. 1 Business Department of Hebei Foreign.[10] However, Hebei Foreign's supplemental response clearly states that Wang Kezheng is not employed by Hebei Foreign. The Department is mindful of the concerns raised by Petitioners with regard to Hebei Foreign's certifications. Accordingly, the Department reminds parties of their obligation pursuant to 19 CFR 351.303(g) to certify factual information submitted to the Department.

Accordingly, because there has been no change in Hebei Foreign's operations from the period of investigation, and because this CCR was initiated based on information that was later determined to be false, and the certifications submitted by Hebei Foreign are questionable, we find that a rescission of this review is appropriate. Therefore, we are now rescinding this change circumstances review.

This notice is issued and published in accordance with sections 751(b)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 C.F.R. 351.216.

Dated: September 18, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9–23116 Filed 9–23–09; 8:45 am]

BILLING CODE 3510–DS–S

[7] *See id.*

[8] *See* Letter from Hebei Foreign, to the Department, regarding Certain Activated Carbon from the People's Republic of China; Request for Changed Circumstances Review (February 24, 2009) (≥Hebei Foreign's CCR Request≥); *see also Initiation.*

[9] *See* Letter from Hebei Foreign to the Department, regarding Certain Activated Carbon from the People's Republic of China; Supplemental Response of Hebei Foreign Trade and Advertising Corp. at page 1 (July 6, 2009) (''Hebei Foreign's Supplemental Questionnaire Response'').

[10] *See id.* at page 1.

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 26, 2009.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs,

Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or send e-mail to *oira_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 21, 2009.

Angela C. Arrington,

Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New.

Title: Application Forms and Instructions for the National Resource Centers (NRC) Program and the Foreign Language and Area Studies (FLAS) Fellowship Program.

Frequency: Every 4 years.

Affected Public: Business or other for profit; Not for profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 178.
Burden Hours: 71,200.

Abstract: The NRC program provides grants to institutions of higher education (IHE) or consortia of IHE to establish, strengthen, and operate comprehensive and undergraduate language and area or international studies centers. The FLAS program provides allocations of fellowships to IHE or consortia of IHE to assist meritorious undergraduate and graduate students undergoing training in modern foreign languages and related area studies, international studies, or the international aspects of professional studies.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4134. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E9–23058 Filed 9–23–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2283–071]

FPL Energy Maine Hydro LLC; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

September 17, 2009.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No.:* 2283–071.

c. *Date Filed:* August 31, 2009.

d. *Applicant:* FPL Energy Maine Hydro LLC.

e. *Name of Project:* Gulf Island-Deer Rips Hydroelectric Project.

f. *Location:* On the Androscoggin River, Androscoggin County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* F. Allen Wiley, Vice President, FPL Energy Maine Hydro LLC, 160 Capitol Street, Suite 8, Augusta, Maine 04330, telephone: (207) 623–8413.

i. *FERC Contact:* Mrs. Anumzziatta Purchiaroni, telephone (202) 502–6191, and e-mail address: *anumzziatta.purchiaroni@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* October 19, 2009.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* The licensee is proposing a non-capacity amendment to upgrade turbine-generator Unit 1 at the Gulf Island Development. The licensee is proposing to replace the turbine runner and rewind the generator, which would result in an increase to the nameplate rating for Unit 1 from 6.4 MW to 8.86 MW. The proposed upgrade would increase the total installed capacity of the project from 34.4 MW to 36.86 MW, and the hydraulic capacity from 12,161 cfs to 12,311 cfs.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. Information about this filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances

related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–22993 Filed 9–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12462–020]

Indian River Power Supply, LLC; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

September 17, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 12462–020.

c. *Date Filed:* August 5, 2009.

d. *Applicant:* Indian River Power Supply, LLC.

e. *Name of Project:* Indian River.

f. *Location:* Westfield River, in the Town of Russell, Hampden County, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Peter B. Clark, Manager, P.O. Box 149, 823 Bay Road, Hamilton, Massachusetts, (978) 468–3999.

i. *FERC Contact:* Jeremy Jessup, *Jeremy.Jessup@ferc.gov,* (202) 502–6779.

j. *Deadline for filing comments, motions to intervene and protest:* October 17, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Indian River Power Supply, LLC, proposes to rehabilitate the project's existing generating Unit 1. The rehabilitated unit would have an installed capacity of 800 kW and a hydraulic capacity of 428 cfs. The rehabilitation would result in a total installed capacity of 1,600 kW and a total hydraulic capacity of 856 cfs for the Indian River Project.

l. *Location of the Application:* The filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426 or by calling (202) 502–8371, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docsfiling/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filing must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(I)(iii) and the instructions on the Commission's Web

site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–22994 Filed 9–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 16, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09–92–000.

Applicants: Eurus Combine Hills II LLC.

Description: Eurus Combine Hills II LLC submits notice of self-certification as an exempt wholesale generator.

Filed Date: 09/14/2009.

Accession Number: 20090916–0077.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–2129–003; ER04–944–007; ER99–1801–012.

Applicants: Orion Power Midwest, L.P., RRI Energy Wholesale Generation, LLC, RRI Energy Solutions East, LLC.

Description: Amendment to the Triennial Report of RRI Central MBR Entities.

Filed Date: 09/15/2009.

Accession Number: 20090915–5054.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 06, 2009.

Docket Numbers: ER03–1284–007; ER05–1202–007; ER08–1225–004.

Applicants: Blue Canyon Windpower II LLC, Cloud County Wind Farm, LLC, Blue Canyon Windpower LLC.

Description: Blue Canyon Windpower LLC *et al* submits notice of non-material change in status in compliance with the reporting requirements set forth in section 35.42 of the regulations of the FERC.

Filed Date: 09/15/2009.

Accession Number: 20090916–0076.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 06, 2009.

Docket Numbers: ER06–615–053; ER09–556–002; ER08–367–007.

Applicants: California Independent System Operator Corporation.

Description: Motion of the California Independent System Operator Corporation to Modify the Effective Date of Certain Tariff Revisions.

Filed Date: 09/11/2009.

Accession Number: 20090911–5108.

Comment Date: 5 p.m. Eastern Time on Friday, October 02, 2009.

Docket Numbers: ER09–412–007.

Applicants: PJM Interconnection LLC.

Description: PJM Interconnection, LLC submits revisions to the PJM Open Access Transmission Tariff, FERC Electric Tariff Sixth Revised Volume 1 to incorporate changes directed by the Aug. 14 Order.

Filed Date: 09/14/2009.

Accession Number: 20090916–0015.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Docket Numbers: ER09–1574–001.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Company submits Substitute First Revised Rate Schedule No 42 *et al.*

Filed Date: 09/14/2009.

Accession Number: 20090914–0077.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Docket Numbers: ER09–1618–000.

Applicants: Montana Alberta Tie Ltd.

Description: Supplemental Information of Montana Alberta Tie Ltd, and MATL LLP.

Filed Date: 09/10/2009.

Accession Number: 20090910–5107.

Comment Date: 5 p.m. Eastern Time on September 21, 2009.

Docket Numbers: ER09–1695–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits a transmission service agreement with Third Planet Windpower, LLC.

Filed Date: 09/11/2009.

Accession Number: 20090911–0055.

Comment Date: 5 p.m. Eastern Time on Friday, October 02, 2009.

Docket Numbers: ER09–1699–000.

Applicants: Eurus Combine Hills II LLC.

Description: Eurus Combine Hills II, LLC submits application for market based rate authority and associated waivers and blanket approvals.

Filed Date: 09/14/2009.

Accession Number: 20090916–0014.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Docket Numbers: ER09–1706–000.

Applicants: Tampa Electric Company.

Description: Tampa Electric Company submits contract for the purchase and sale of economy energy between Tampa Electric and The Energy Authority, Inc.

Filed Date: 09/14/2009.

Accession Number: 20090915–0062.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Docket Numbers: ER09–1707–000.

Applicants: PacifiCorp.

Description: PacifiCorp Energy submits notice of termination of Rate Schedule No. 389 with Bonneville Power Administration.

Filed Date: 09/14/2009.

Accession Number: 20090915–0061.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Docket Numbers: ER09–1708–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits for request for a one time waiver.

Filed Date: 09/15/2009.

Accession Number: 20090915–0060.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 06, 2009.

Docket Numbers: ER09–1709–000.

Applicants: Midwest Independent Transmission System.

Description: Midwest Independent Transmission System Operator, Inc submits revisions to the Credit Policy in Attachment L and Module A of the Midwest ISO's Open Access Transmission, Energy and Operating Reserves Market Tariff.

Filed Date: 09/15/2009.

Accession Number: 20090916–0018.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 06, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA09–11–001.

Applicants: Black Hills Power, Inc.

Description: Transmission Providers submits a revised version of Attachment K to their joint open access transmission tariff on file with FERC.

Filed Date: 09/15/2009.

Accession Number: 20090916–0017.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 06, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–22998 Filed 9–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

September 17, 2009.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG09–93–000.

Applicants: Elmwood Park Power LLC.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Elmwood Park Power LLC.

Filed Date: 09/17/2009.

Accession Number: 20090917–5010.

Comment Date: 5 p.m. Eastern Time on Thursday, October 08, 2009.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER09–863–003.

Applicants: SMART Papers Holdings, LLC.

Description: SMART Papers Holdings, LLC submits supplement its 3/23/09 Application and its July 20 and Aug. 21, 2009 Supplemental Filing for Market Based Rate Authority.

Filed Date: 09/16/2009.

Accession Number: 20090916–0098.

Comment Date: 5 p.m. Eastern Time on Wednesday, October 07, 2009.

Docket Numbers: ER09–1472–001.

Applicants: Viridian Energy, Inc.

Description: Viridian Energy, Inc submits Original Sheet 1 *et al.* to its FERC Electric Tariff, Original Volume 1, effective September 10, 2009.

Filed Date: 09/15/2009.

Accession Number: 20090916–0093.

Comment Date: 5 p.m. Eastern Time on Tuesday, October 06, 2009.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA08–34–002.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits Second Revised Sheet 147E *et al.* to FERC Electric Tariff, Second Revised Volume 6.

Filed Date: 09/14/2009.

Accession Number: 20090916–0013.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Docket Numbers: OA08–47–002; OA08–48–002.

Applicants: Tucson Electric Power Company, UNS Electric, Inc.

Description: Tucson Electric Power Company *et al.* submits revised Attachment K tariff sheets to their respective Open Access Transmission Tariffs.

Filed Date: 09/14/2009.

Accession Number: 20090916–0016.

Comment Date: 5 p.m. Eastern Time on Monday, October 05, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–22997 Filed 9–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2242–078]

Eugene Water and Electric Board, Oregon; Notice of Availability of Environmental Assessment

September 17, 2009.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission or FERC's) regulations, 18 Code of Federal Regulations (CFR) part 380 (Order No. 486, 52 **Federal Register** [FR] 47897), the Office of Energy Projects has reviewed the Eugene Water and Electric Board's application for license for the Carmen-Smith Project (FERC No. 2242–078), located in on the McKenzie River in Lane and Linn counties, near McKenzie Bridge, Oregon. The project occupies approximately 574 acres of the Willamette National Forest managed by

the U.S. Department of Agriculture, Forest Service. Eugene Water and Electric Board proposes no new capacity.

Staff prepared an environmental assessment (EA), which analyzes the potential environmental effects of relicensing the project, and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

A copy of the EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice and should be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 2242–078 to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

For further information, contact Robert Easton by telephone at 202–502–6045 or by e-mail at *Robert.Easton@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E9–22995 Filed 9–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10855–000]

Upper Peninsula Power Company; Notice of Availability of Environmental Assessment

September 17, 2009.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380, Commission staff have prepared an environmental assessment (EA) regarding Upper Peninsula Power Company's request to replace the penstock at the McClure development of the Dead River Hydroelectric Project (FERC No. 10855) located on the Dead River in Marquette County, Michigan.

The EA contains the Commission staff's analysis of the potential environmental effects of the proposed replacement of the McClure Penstock and concludes that the proposed penstock replacement, with appropriate environmental protective measures, would not constitute a major Federal action that would significantly affect the quality of the human environment.

Copies of the EA are available for review in the Public Reference Room 2–A of the Commission's offices at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the Commission's Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Additional information about the project is available from the Commission's Office of External Affairs, at (202) 502–6088, or on the Commission's Web site using the eLibrary link. For assistance with eLibrary, contact *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676; for TTY contact (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–22996 Filed 9–23–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1699–000]

Eurus Combine Hills II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

September 17, 2009.

This is a supplemental notice in the above-referenced proceeding of Eurus Combine Hills II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is September 17, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed

dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E9–22999 Filed 9–23–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2009–0313; FRL–8962–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Critical Public Information Needs During Drinking Water Emergencies (New); EPA ICR No. 2322.01, OMB Control No. 2080–NEW

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for a new collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Comments must be submitted on or before October 26, 2009.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2009–0313 to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *ord.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Office of Research & Development Docket, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Scott Minamyer, Environmental Protection Agency, Mail Code NG–16, Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45220; telephone number: 513–569–7175; fax number: 513–487–2559; e-mail address: *minamyer.scott@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 17, 2009 (74 FR 28696), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA EPA–HQ–ORD–2009–0313, which is available for online viewing at *http://www.regulations.gov*, or in person viewing at the ORD Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the ORD Docket is 202–566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov*.

Title: Critical Public Information Needs during Drinking Water Emergencies (New).

ICR numbers: EPA ICR No. 2322.01, OMB Control No. 2080–NEW.

ICR status: This ICR is for a new information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR Part 9.

Abstract: EPA is collecting this information as part of a formative research study to identify critical information the public will need from water utilities and other decision-makers during a crisis event impacting drinking water. The research will probe consumers' and water sector professionals' beliefs, opinions, and knowledge about water security risks to assist public officials in planning effective crisis communication strategies for such emergencies. Good communication can rally support, calm fears, provide needed instructions, and encourage cooperative behaviors.

Study participants will also provide feedback on the effectiveness of draft sample messages previously developed by EPA in consultation with subject matter experts from water utilities, public health, emergency response, law enforcement, and water trade/professional organizations. Voluntary participants for this one-time study will include water utility managers, public information officers, and members of the public who consume drinking water supplied by water utilities. Confidentiality of responses from respondents will be assured by using an independent contractor to collect the information, enacting procedures to prevent unauthorized access to respondent data, and preventing public disclosure of the responses of individual participants.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.7 hours per response. Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: Review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Water utility professional staff and members of

the public participating in focus group discussions.

Estimated Number of Respondents: 180.

Frequency of Response: Once.

Estimated Total Annual Hour Burden: 308.

Estimated Total Annual Cost: $1,380; includes $0 annualized capital or O&M costs.

Changes in the Estimates: This is a new ICR.

Dated: September 17, 2009.

John Moses,

Director, Collection Strategies Division.

[FR Doc. E9–23075 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Petition IV–2008–3; FRL–8962–8]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Louisville Gas and Electric Company—Trimble County Generating Station; Bedford (Trimble County), KY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an Order, dated August 12, 2009, partially granting and partially denying a petition to object to a state operating permit issued by the Kentucky Division for Air Quality (KDAQ) to Louisville Gas and Electric (LG&E) for its Trimble County Generating Station located in Bedford, Trimble County, Kentucky. This Order constitutes a final action on the petitions submitted by Save the Valley, Sierra Club, and Valley Watch (Petitioners) on April 28, 2008 (Petition 2), and March 2, 2006 (Petition 1), respectively. Pursuant to section 505(b)(2) of the CAA, any person may seek judicial review of the Order in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307(b) of the Act.

ADDRESSES: Copies of the Order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The Order is also available electronically at the following address: *http://www.epa.gov/region07/programs/artd/air/title5/petitiondb/petitions/lg&e_2nddecision2006.pdf.*

FOR FURTHER INFORMATION CONTACT: Art Hofmeister, Air Permits Section, EPA Region 4, at (404) 562–9115 or *hofmeister.art@epa.gov.*

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state permitting authorities under title V of the CAA, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Petitioners submitted the first of two petitions regarding the LG&E Trimble County Generating Station on March 2, 2006, requesting that EPA object to Revision 2 to the LG&E merged prevention of significant deterioration and title V operating permit. The second petition, regarding Revision 3 to the merged permit, was submitted on April 29, 2008. On September 10, 2008, EPA issued a ''Partial Order Responding to March 2, 2006, Petition and Denying in Part and Granting in Part Request for Objection to Permit Revision 2.'' In the September 2008 Order, EPA explained that some issues raised in Petition 1 were affected by permit Revision 3 and also discussed in Petition 2. At this time, EPA is addressing all the remaining issues identified by Petitioners in Petitions 1 and 2.

Petitioners alleged that the permit was not consistent with the CAA for the following reasons: (1) Public participation procedures were not adequate; (2) the permit failed to include requirements for addressing green house gases; (3) the best available control technology (BACT) analysis for nitrogen oxides and sulfur dioxide was not adequate; (4) BACT for the auxiliary boiler and emergency diesel generator were not adequate; (5) BACT for support operations was not adequate; (6) BACT for particulate matter (PM) and particulate matter with a diameter less than or equal to ten micrometers (PM_{10}) was not adequate; (7) BACT for sulfuric acid mist (SAM) was not adequate; (8) the permit failed to consider particulate matter with a diameter less than or equal to 2.5 micrometers; (9) the permit failed to express limits in an adequate manner; (10) BACT analyses did not include clean fuels; (11) the permit lacked a maximum achievable control technology determination for mercury and other hazardous air pollutants; (12) the emission limits for SAM, PM/PM_{10}, and mercury were not enforceable (compliance assurance monitoring concerns); and (13) the permit improperly relied on manufacturer specifications that are not included in the permit, did not identify test methods, and additional concerns regarding netting.

On August 12, 2009, the Administrator issued an Order partially granting and partially denying the petition. The Order explains EPA's rationale for granting the petition with respect to issues 4 and 8, above, and denying on the other issues.

Dated: September 14, 2009.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. E9–23077 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8955–1; Docket ID No. EPA–HQ–ORD–2009–0115]

Draft Toxicological Review of 1,1,2,2-Tetrachloroethane: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period and listening session.

SUMMARY: EPA is announcing a public comment period and a public listening session for the external review draft document titled, ''Toxicological Review of 1,1,2,2-Tetrachloroethane: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–09/001). The draft document was prepared by the National Center for Environmental Assessment (NCEA) within the EPA's Office of Research and Development (ORD). The public comment period and the external peer-review workshop, which will be scheduled at a later date and announced in the **Federal Register**, are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted in accordance with this notice to the external peer-review panel prior to the

meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is also announcing a listening session to be held on October 14, 2009, during the public comment period for this draft document. This listening session is a step in EPA's revised IRIS process, announced on May 21, 2009, to develop human health assessments for inclusion in the IRIS database. The purpose of the listening session is to allow all interested parties to present scientific and technical comments on draft IRIS health assessments to EPA and other interested parties during the public comment period and before the external peer review meeting. EPA welcomes the scientific and technical comments that will be provided to the Agency by the listening session participants. The comments will be considered by the Agency as it revises the draft assessment in response to the independent external peer review and the public comments. All presentations will become part of the official public record.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

DATES: The public comment period begins September 24, 2009, and ends November 23, 2009. Technical comments should be in writing and must be received by EPA by November 23, 2009.

The listening session on the draft IRIS health assessment for 1,1,2,2-tetrachloroethane will be held on October 14, 2009, beginning at 9 a.m. and ending at 4 p.m., Eastern Daylight Time. If you want to make a presentation at the listening session, you should register by October 7, 2009, indicate that you wish to make oral comments at the session, and indicate the length of your presentation. When you register, please indicate if you will need audio-visual aid (e.g., lap top and slide projector). In general, each presentation should be no more than 30 minutes. If, however, there are more requests for presentations than the allotted time allows, then the time limit for each presentation will be adjusted. A copy of the agenda for the listening session will be available at the meeting. If no speakers have registered by October 7, 2009, the listening session will be cancelled and EPA will notify those registered of the cancellation.

Listening session participants who want EPA to share their comments with the external peer reviewers should also submit written comments during the public comment period using the detailed and established procedures described in the **SUPPLEMENTARY INFORMATION** section of this notice. Comments submitted to the docket prior to the end of the public comment period will be submitted to the external peer reviewers and considered by EPA in the disposition of public comments. All comments must be submitted to the docket, but comments received after the public comment period closes will not be submitted to the external peer reviewers.

ADDRESSES: The draft ''Toxicological Review of 1,1,2,2-Tetrachloroethane: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available primarily via the Internet on the NCEA home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

The listening session on the draft 1,1,2,2-Tetrachloroethane assessment will be held at the EPA offices at Two Potomac Yard (North Building), 7th Floor, Room 7100, 2733 South Crystal Drive, Arlington, Virginia 22202. To attend the listening session, register by October 7, 2009, via e-mail at *meetings@erg.com* (subject line: 1,1,2,2-Tetrachloroethane listening session), by phone: 781–674–7374 or toll free at 800–803–2833 or by faxing a registration request 781–674–2906 (please reference the ''1,1,2,2-Tetrachloroethane Listening Session'' and include your name, title, affiliation, full address and contact information). Please note that to gain entrance to this EPA building to attend the meeting, attendees must have photo identification with them and must register at the guard's desk in the lobby. The guard will retain your photo identification and will provide you with a visitor's badge. At the guard's desk, attendees should give the name Christine Ross and the telephone number, 703–347–8592, to the guard on duty. The guard will contact Ms. Ross who will meet you in the reception area to escort you to the meeting room. When you leave the building, please return your visitor's badge to the guard and you will receive your photo identification.

A teleconference line will also be available for registered attendees/speakers. The teleconference number is 866–299–3188 and the access code is 926–378–7897, followed by the pound sign (#). The teleconference line will be activated at 8:45 am, and you will be asked to identify yourself and your affiliation at the beginning of the call.

Information on Services for Individuals with Disabilities: EPA welcomes public attendance at the ''1,1,2,2-Tetrachloroethane Listening Session'' and will make every effort to accommodate persons with disabilities. For information on access or services for individuals with disabilities, please contact Christine Ross at 703–347–8592 or *ross.christine@epa.gov.* To request accommodation of a disability, please contact Ms. Ross, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

For information on the public listening sessions, please contact Christine Ross, IRIS Staff, National Center for Environmental Assessment, (8601P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703–347–8592; facsimile: 703–347–8689; or e-mail: *ross.christine@epa.gov.*

If you have questions about the document, contact Martin Gehlhaus, National Center for Environmental Assessment (NCEA), 1200 Pennsylvania Ave., 8601P, Washington, DC 20460; telephone: 703–347–8579; facsimile: 703–347–8689; or e-mail: *gehlhaus.martin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About IRIS

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than

540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0115 by one of the following methods:

- *http://www.regulations.gov:* Follow the online instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0115. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: August 21, 2009.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. E9–22909 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8957–6; Docket ID No. EPA–HQ–ORD–2009–0348]

Draft Toxicological Review of cis- and trans-1,2-Dichloroethylene: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Comment Period and Listening Session.

SUMMARY: EPA is announcing a public comment period and a public listening session for the external review draft document titled, ''Toxicological Review of cis- and trans-1,2-Dichloroethylene: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–09/006). The draft document was prepared by the National Center for Environmental Assessment (NCEA) within the EPA's Office of Research and Development (ORD). The public comment period and the external peer-review workshop, which will be scheduled at a later date and announced in the **Federal Register**, are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted in accordance with this notice to the external peer-review panel prior to the meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is also announcing a listening session to be held on October 19, 2009, during the public comment period for this draft document. This listening session is a step in EPA's revised IRIS process, announced on May 21, 2009, to develop human health assessments for inclusion in the IRIS database. The purpose of the listening session is to allow all interested parties to present scientific and technical comments on draft IRIS health assessments to EPA and other interested parties during the public comment period and before the external peer review meeting. EPA welcomes the scientific and technical comments that will be provided to the Agency by the listening session participants. The comments will be considered by the Agency as it revises the draft assessment in response to the independent external peer review and the public comments. All presentations will become part of the official public record.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

DATES: The public comment period begins September 24, 2009, and ends November 23, 2009. Technical comments should be in writing and must be received by EPA by November 23, 2009.

The listening session on the draft IRIS health assessment for cis- and trans-1,2-dichloroethylene will be held on October 19, 2009, beginning at 9:00 a.m. and ending at 4:00 p.m., Eastern Daylight Time. If you want to make a presentation at the listening session, you should register by October 12, 2009, indicate that you wish to make oral comments at the session, and indicate the length of your presentation. When you register, please indicate if you will need audio-visual aid (*e.g.,* lap top and slide projector). In general, each presentation should be no more than 30 minutes. If, however, there are more requests for presentations than the allotted time allows, then the time limit for each presentation will be adjusted. A copy of the agenda for the listening session will be available at the meeting. If no speakers have registered by October 12, 2009, the listening session will be cancelled and EPA will notify those registered of the cancellation.

Listening session participants who want EPA to share their comments with the external peer reviewers should also submit written comments during the public comment period using the detailed and established procedures described in the **SUPPLEMENTARY INFORMATION** section of this notice. Comments submitted to the docket prior to the end of the public comment period will be submitted to the external peer reviewers and considered by EPA in the disposition of public comments. All comments must be submitted to the docket, but comments received after the public comment period closes will not be submitted to the external peer reviewers.

ADDRESSES: The draft ''Toxicological Review of cis- and trans-1,2-Dichloroethylene: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available primarily via the Internet on the NCEA home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

The listening session on the draft cis- and trans-1,2-dichloroethylene assessment will be held at the EPA offices at Two Potomac Yard (North Building), 7th Floor, Room 7100, 2733 South Crystal Drive, Arlington, Virginia 22202. To attend the listening session, register by October 12, 2009, via e-mail at *saundkat@versar.com* (subject line: cis- and trans-1,2-Dichloroethylene Listening Session), by phone: 703–750–3000, ext. 545, or toll free at 1–800–2–VERSAR (ask for Kathy Coon, the cis- and trans-1,2-Dichloroethylene listening session coordinator), or by faxing a registration request to 703–642–6954 (please reference the ''cis- and trans-1,2-Dichloroethylene Listening Session'' and include your name, title, affiliation, full address and contact information). Please note that to gain entrance to this EPA building to attend the meeting, attendees must have photo identification with them and must register at the guard's desk in the lobby. The guard will retain your photo identification and will provide you with a visitor's badge. At the guard's desk, attendees should give the name Christine Ross and the telephone number, 703–347–8592, to the guard on duty. The guard will contact Ms. Ross who will meet you in the reception area to escort you to the meeting room. When you leave the building, please return your visitor's badge to the guard and you will receive your photo identification.

A teleconference line will also be available for registered attendees/speakers. The teleconference number is 866–299–3188 and the access code is 926–378–7897, followed by the pound sign (#). The teleconference line will be activated at 8:45 a.m., and you will be asked to identify yourself and your affiliation at the beginning of the call.

Information on Services for Individuals with Disabilities: EPA welcomes public attendance at the ''cis- and trans-1,2-Dichloroethylene Listening Session'' and will make every effort to accommodate persons with disabilities. For information on access or services for individuals with disabilities, please contact Christine Ross at 703–347–8592 or *ross.christine@epa.gov.* To request accommodation of a disability, please contact Ms. Ross, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

For information on the public listening sessions, please contact Christine Ross, IRIS Staff, National Center for Environmental Assessment, (8601P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703–347–8592; facsimile: 703–347–8689; or e-mail: *ross.christine@epa.gov.*

If you have questions about the document, contact Audrey Galizia, National Center for Environmental Assessment (NCEA), telephone: 732–906–6887; facsimile: 732–452–6429; or e-mail: *galizia.audrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About IRIS

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0348 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0348. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov*, including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: September 1, 2009.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. E9–23056 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8959–1; Docket ID No. EPA–HQ–ORD–2009–0203]

Draft Toxicological Review of Trichloroacetic Acid: In Support of the Summary Information in the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period and listening session.

SUMMARY: EPA is announcing a public comment period and a public listening session for the external review draft document titled, ''Toxicological Review of Trichloroacetic Acid: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/635/R–09/003A). The draft document was prepared by the National Center for Environmental Assessment (NCEA) within the EPA's Office of Research and Development (ORD). The public comment period and the external peer-review workshop, which will be scheduled at a later date and announced in the **Federal Register**, are separate processes that provide opportunities for all interested parties to comment on the document. EPA intends to forward the public comments that are submitted in accordance with this notice to the external peer-review panel prior to the meeting for their consideration. When finalizing the draft document, EPA intends to consider any public comments that EPA receives in accordance with this notice.

EPA is also announcing a listening session to be held on November 4, 2009, during the public comment period for this draft document. This listening session is a step in EPA's revised IRIS process, announced on May 21, 2009, to develop human health assessments for inclusion in the IRIS database. The purpose of the listening session is to allow all interested parties to present scientific and technical comments on draft IRIS health assessments to EPA and other interested parties during the public comment period and before the external peer review meeting. EPA welcomes the scientific and technical comments that will be provided to the Agency by the listening session participants. The comments will be considered by the Agency as it revises the draft assessment in response to the independent external peer review and the public comments. All presentations will become part of the official public record.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination.

DATES: The public comment period begins September 24, 2009, and ends November 23, 2009. Technical comments should be in writing and must be received by EPA by November 23, 2009.

The listening session on the draft IRIS health assessment for trichloroacetic acid will be held on November 4, 2009, beginning at 9 a.m. and ending at 4 p.m., Eastern Daylight Time. If you want to make a presentation at the listening session, you should register by October 28, 2009, indicate that you wish to make oral comments at the session, and indicate the length of your presentation. When you register, please indicate if you will need audio-visual aid (*e.g.,* lap top and slide projector). In general, each presentation should be no more than 30 minutes. If, however, there are more requests for presentations than the allotted time allows, then the time limit for each presentation will be adjusted. A copy of the agenda for the listening session will be available at the meeting.

If no speakers have registered by October 28, 2009, the listening session will be cancelled and EPA will notify those registered of the cancellation.

Listening session participants who want EPA to share their comments with the external peer reviewers should also submit written comments during the public comment period using the detailed and established procedures described in the **SUPPLEMENTARY INFORMATION** section of this notice. Comments submitted to the docket prior to the end of the public comment period will be submitted to the external peer reviewers and considered by EPA in the disposition of public comments. All comments must be submitted to the docket, but comments received after the public comment period closes will not be submitted to the external peer reviewers.

ADDRESSES: The draft ''Toxicological Review of Trichloroacetic Acid: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' is available primarily via the Internet on the NCEA home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea*. A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *http://www.regulations.gov*, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

The listening session on the draft trichloroacetic acid assessment will be held at the EPA offices at Two Potomac Yard (North Building), 7th Floor, Room 7100, 2733 South Crystal Drive, Arlington, Virginia 22202. To attend the listening session, register by October 28, 2009, via e-mail at *KRiley@versar.com* (subject line: Trichloroacetic Acid Listening Session), by phone: 703–750–3000 extension 579, or by faxing a registration request to 703–642–6954 (please reference the ''Trichloroacetic Acid Listening Session'' and include your name, title, affiliation, full address and contact information). Please note that to gain entrance to this EPA building to attend the meeting, attendees must have photo identification with them and must register at the guard's desk in the lobby. The guard will retain your photo identification and will provide you with a visitor's badge. At the guard's desk, attendees should give the name Christine Ross and the telephone number, 703–347–8592, to the guard on duty. The guard will contact Ms. Ross who will meet you in the reception area to escort you to the meeting room. When you leave the building, please return your visitor's badge to the guard and you will receive your photo identification.

A teleconference line will also be available for registered attendees/speakers. The teleconference number is 866–299–3188 and the access code is 926–378–7897, followed by the pound sign (#). The teleconference line will be activated at 8:45 am, and you will be asked to identify yourself and your affiliation at the beginning of the call.

Information on Services for Individuals with Disabilities: EPA welcomes public attendance at the ''Trichloroacetic Acid Listening Session'' and will make every effort to accommodate persons with disabilities. For information on access or services for individuals with disabilities, please contact Christine Ross at 703–347–8592 or *ross.christine@epa.gov*. To request accommodation of a disability, please contact Ms. Ross, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov*.

For information on the public listening sessions, please contact Christine Ross, IRIS Staff, National Center for Environmental Assessment, (8601P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703–347–8592; facsimile: 703–347–8689; or e-mail: *ross.christine@epa.gov*.

If you have questions about the document, contact Diana Wong, National Center for Environmental Assessment, (8601P), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone: 703–347–8633; facsimile: 703–347–8689; or e-mail: *wong.diana-m@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Information About IRIS

IRIS is a database that contains potential adverse human health effects information that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 540 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of a risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities can use IRIS data to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at http://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2009–0203 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov*.
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2009–0203. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to

include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov*, including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: August 28, 2009.

Rebecca Clark,

Acting Director, National Center for Environmental Assessment.

[FR Doc. E9–23050 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8962–3]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act (Pub. L. 92–463), EPA gives notice of a meeting of the Gulf of Mexico Program (GMP) Citizens Advisory Committee (CAC).

DATES: The meeting will be held on Monday, October 19, 2009, from 9 a.m. to 11:45 a.m. and from 3:30 p.m. to 7 p.m.

ADDRESSES: The meeting will be held at the Sheraton Hotel, 555 Canal Street, New Orleans, LA 70130.

For information on access or services for individuals with disabilities, please contact Gloria Car, U.S. EPA, at (228) 688–2421 or *car.gloria@epa.gov.* To request accommodation of a disability, please contact Gloria Car, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

FOR FURTHER INFORMATION CONTACT: Gloria D. Car, Designated Federal Officer, Gulf of Mexico Program Office, Mail Code EPA/GMPO, Stennis Space Center, MS 39529–6000 at (228) 688–2421.

SUPPLEMENTARY INFORMATION: The proposed agenda includes the following topics: A discussion regarding CAC business (recruitment update, communication strategy, member updates, next meeting); Gulf of Mexico End of Fiscal Year Accomplishments; Wetlands Loss Presentation; and member participation in the Ocean Policy Public Listening Session.

The meeting is open to the public.

Dated: September 17, 2009.

Gloria D. Car,

Designated Federal Officer.

[FR Doc. E9–23083 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8962–9]

NACEPT Subcommittee on Promoting Environmental Stewardship

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, EPA gives notice of a meeting of the NACEPT Subcommittee on Promoting Environmental Stewardship.

The purpose of the Subcommittee on Promoting Environmental Stewardship (SPES) of the National Advisory Council for Environmental Policy and Technology (NACEPT) is to advise the U.S. Environmental Protection Agency on how to promote environmental stewardship practices that encompass all environmental aspects of an organization in the regulated community and other sectors, as appropriate, in order to enhance human health and environmental protection. A copy of the meeting agenda will be posted at *http://epa.gov/ncei/dialogue.htm*. This Web site also includes the charge of the SPES, which provides further information about the purpose of the Subcommittee.

The agenda for the subject meeting will focus on discussions among the three current Subcommittee workgroups: (1) Gap Analysis Workgroup, which is exploring how stewardship activities may accomplish Agency goals that are not covered by statute or regulation; (2) Short-term Recommendations Workgroup, which is looking at relatively simple and quick actions for EPA to implement in the short term to promote stewardship; and (3) Long-term Recommendations Workgroup, which is exploring EPA's role in addressing issues that invite and require a cross-sector, cross-media, and long-term perspective (e.g., climate change and energy use).

DATES: The NACEPT Subcommittee on Promoting Environmental Stewardship will hold an open meeting on October 6 (8:30 a.m.–5 p.m.) and October 7, 2009 (8:30 a.m.–5 p.m.) Eastern standard time.

ADDRESSES: The meeting will be held at the EPA Office of Pesticide Programs, One Potomac Yard, Conference Center South (Room S–4370–80, Fourth Floor), 2777 S. Crystal Dr., Arlington, VA 22202. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Regina Langton, Designated Federal Officer, *langton.regina@epa.gov*, 202–566–2178, U.S. EPA Office of Policy, Economics, and Innovation (MC1807T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make brief oral comments or provide written statements to the SPES should be sent to Jennifer Peyser at (202) 965–6215 or *jpeyser@RESOLV.org.* All

requests must be received no later than September 30, 2009.

Meeting Access: For information on access or services for individuals with disabilities, please contact Jennifer Peyser at *jpeyser@RESOLV.org*. To request accommodation of a disability, please contact Jennifer Peyser at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: September 21, 2009.

Regina Langton,

Designated Federal Officer.

[FR Doc. E9–23049 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8962–7]

Notice of a Project Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) to the City of Salem, New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA is hereby granting a project waiver of the Buy American requirements of ARRA Section 1605 under the authority of Section 1605(b)(2) [manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality] to the City of Salem, New Jersey (the City), for the purchase of a specific Canadian-manufactured membrane filtration system (ZeeWeed® 500). The ZeeWeed® 500 Immersed Ultra-filtration Membranes are manufactured outside of the United States by GE Water & Processes Technologies (GEW&PT), in Canada. The design and specifications of the City's proposed new Surface Water Treatment Plant were based on the performance and characteristics of the ZeeWeed® 500 membrane system, following pilot testing conducted from March through August 2007, which demonstrated that the equipment worked very well in removing total organic carbon, as well as other contaminants; the successful pilot testing of surface treatment plant technologies is a prerequisite to obtaining a construction permit from the New Jersey Department of Environmental Protection (NJDEP). The Acting Regional Administrator is making this determination based on the review and recommendations of the State Revolving Fund Program Team. The City has provided sufficient documentation to support its request. The Assistant Administrator of the Office of Administration and Resources Management has concurred on this decision to make an exception to Section 1605 of ARRA. This action permits the purchase of ZeeWeed® 500 Immersed Ultra-filtration Membranes for the proposed project being implemented by the City of Salem, New Jersey.

DATES: *Effective Date:* August 27, 2009.

FOR FURTHER INFORMATION CONTACT: Alicia Suárez, Environmental Engineer, (212) 637–3851, State Revolving Fund Program Team, Division of Environmental Planning and Protection, U.S. EPA, 290 Broadway, New York, NY 10007.

SUPPLEMENTARY INFORMATION: In accordance with ARRA Section 1605(c) and pursuant to Section 1605(b)(2) of Public Law 111–5, Buy American requirements, the EPA hereby provides notice that it is granting a project waiver to the City for the acquisition of ZeeWeed® 500 Immersed Ultra-filtration Membranes manufactured in Canada by GEW&PT.

Section 1605 of the ARRA requires that none of the appropriated funds may be used for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States, unless a waiver is provided to the recipient by EPA. A waiver may be provided if EPA determines that (1) applying these requirements would be inconsistent with public interest; (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron, steel, and the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

The City proposes to replace its existing surface water treatment plant because the current plant, constructed in 1974, is unlikely to be able to provide water that complies with the Stage II Disinfectants and Disinfection Byproducts Rule or appropriate log removal of microorganisms. The use of the ZeeWeed® 500 membrane system is based on a stated need for immersed ultra-filtration membranes that have a reinforced hollow fiber membrane with a very high tensile strength and a high solids tolerance that is necessary for direct filtration after enhanced coagulation without clarification. The ZeeWeed® 500 Immersed Ultra-filtration Membranes were described by the City as meeting these specifications.

The City has stated that all surface treatment plant technologies must be piloted in New Jersey in order to receive a construction permit from the NJDEP. Successful pilot testing prior to NJDEP approval of a construction permit ensures that the completed facility will be in compliance with the Stage II Disinfectants and Disinfection Byproducts Rule. The pilot testing results of the ZeeWeed® 500 membranes, conducted from March through August 2007, demonstrated that the equipment worked very well in removing total organic carbon, as well as other contaminants, and that the design of the new water treatment plan was based on the ZeeWeed® 500 ultra filtration membrane system. The City has provided information to the EPA representing that GEW&PT, manufacturer of the ZeeWeed® 500, is the only company capable of supplying a membrane system that meets the criteria of an immersed, reinforced, hollow fiber ultra filtration system that does not require clarification prior to filtration. The City's submission clearly articulates entirely functional reasons for its technical specifications, and has provided sufficient documentation that the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantity and of a satisfactory quality to meet its technical specifications.

The April 28, 2009, EPA Headquarters Memorandum, ''Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009,' '' defines: *reasonably available quantity* as ''the quantity of iron, steel, or the relevant manufactured good is available or will be available at the time needed and place needed, and in the proper form or specification as specified in the project plans and design,'' and *satisfactory quality* as ''the quality of iron, steel, or the relevant manufactured good as specified in the project plans and designs.''

Based on additional research conducted by the State Revolving Fund Program Team of the Division of Environmental Planning and Protection and to the best of the Region's knowledge at the time of the review, there does not appear to be other membrane equipment that meets the City's exact technical specifications.

Furthermore, the purpose of the ARRA is to stimulate economic recovery in part by funding current infrastructure construction, not to delay projects that are ''shovel ready'' by requiring utilities,

such as the City, to begin a new pilot study with an alternate membrane, revise plans and specifications, and apply for a new construction permit from the NJDEP. The City has stated that if the City were subject to the Buy American provision, the project would be delayed for at least one year. The imposition of ARRA Buy American requirements on such projects otherwise eligible for State Revolving Fund assistance would result in unreasonable delay and thus displace the ''shovel ready'' status for this project. To further delay construction is in direct conflict with the fundamental purpose of the ARRA, which is to preserve and create jobs and promote economic recovery.

The State Revolving Fund Program Team has reviewed this waiver request and has determined that the supporting documentation provided by the City is sufficient to meet the criteria listed under Section 1605(b), OMB's regulation at 2 CFR 176.100, and in the EPA Headquarters April 28, 2009, Memorandum, ''Implementation of Buy American provisions of Public Law 111–5, the 'American Recovery and Reinvestment Act of 2009':'' Iron, steel, and the manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

The basis for this project waiver is the authorization provided in Section 1605(b)(2). Due to the lack of production of this product in the United States in sufficient and reasonably available quantities and of a satisfactory quality in order to meet the City's technical specifications, a waiver from the Buy American requirement is justified.

The Administrator's March 31, 2009, delegation of authority memorandum provided Regional Administrators with the authority to issue exceptions to Section 1605 of ARRA within the geographic boundaries of their respective regions and with respect to requests by individual grant recipients. Having established both a proper basis to specify the particular good required for this project, and that this manufactured good was not available from a producer in the United States, the City of Salem is hereby granted a waiver from the Buy American requirements of Section 1605(a) of Public Law 111–5 for the purchase of a ZeeWeed® 500 ultra filtration membrane system using ARRA funds as specified in the City's request of June 5, 2009, as supplemented on June 16, 2009. This supplementary information constitutes the detailed written justification required by Section 1605(c) for waivers ''based on a finding under subsection (b).''

Authority: Public Law 111–5, section 1605.

Dated: August 27, 2009.

Barbara Finazzo,

Acting Regional Administrator, Region 2.

[FR Doc. E9–23080 Filed 9–23–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 09–1917]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Mr. Frankie Logyang Wong from the schools and libraries universal service support mechanism (or ''E-Rate Program'') for a period of three years. The Bureau takes this action to protect the E-Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. Frankie Logyang Wong receives the debarment letter or September 24, 2009, whichever date come first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Rebekah Bina, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Rebekah Bina may be contacted by phone at (202) 418–7931 or e-mail at *Rebekah.Bina@fcc.gov.* If Ms. Bina is unavailable, you may contact Ms. Michele Berlove, Acting Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *michele.berlove@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. Frankie Logyang Wong from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8 and 47 CFR 0.111. Attached is the debarment letter, DA 09–473, which was mailed to Mr. Frankie Logyang Wong and released on February 26, 2009. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is available on the FCC's Web site at *http://www.fcc.gov.* The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com.*

Federal Communications Commission.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

August 27, 2009

DA 09–1917

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED AND FACSIMILE (713) 224–5153

Mr. Frankie Logyang Wong, c/o David Gerger, 1001 Fannin, Suite 1950, Houston, TX 77002.

Re: Notice of Debarment, File No. EB–08–IH–5313

Dear Mr. Wong: Pursuant to section 54.8 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism (or ''E-Rate program'') for a period of three years.[1]

On February 26, 2009, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'').[2] That Notice of Suspension was published in the **Federal Register** on March 19, 2009.[3] The Notice of Suspension suspended you from the schools and libraries universal service support mechanism and described the basis for initiation of debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in

[1] *See* 47 CFR 0.111(a), 54.8.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Frankie Logyang Wong, Notice of Suspension and Initiation of Debarment Proceedings, 24 FCC Rcd 2456 (Inv. & Hearings Div., Enf. Bur. 2009) (Attachment 1) (''Notice of Suspension''). In the Notice of Suspension, the Bureau referred to your frauds as being associated with E-Rate Funding Year 2002. *See Notice of Suspension* at 2456. The proper funding year associated with your fraud is E-Rate Program 6 and should be noted as Funding Year 2003. *See United States* v. *Ruben B. Bohuchot. et al.*, Criminal Docket No. 3:07–CR–167–L–2, Indictment at 5 (N.D.Tex. filed May 22, 2007, and entered May. 24, 2007, under seal; unsealed May 29, 2007). (''*DISD Indictment*'').

[3] 74 FR 11728, Mar. 19, 2009.

[4] *See* Notice of Suspension, 24 FCC Rcd at 2456–57.

the **Federal Register.**[5] The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, the United States District Court in Texas sentenced you to serve ten years in prison following your conviction of Federal crimes, including conspiracy to commit bribery, conspiracy to launder monetary instruments, and multiple counts of bribery concerning programs receiving Federal funds, in connection with your participation in the E-Rate program.[6] Evidence at trial demonstrated that, as the co-owner and president of Micro Systems Engineering, Inc., you participated in a bribery and money laundering scheme involving technology projects for the Dallas Independent School District, including a contract that involved E-Rate funds.[7] Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.8(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, *i.e.,* the earlier date of your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.'' [10]

Sincerely,

Hillary S. DeNigro

Chief, Investigations and Hearings Division Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)

Dayle A. Elieson, U.S. Attorney's Office, United States Department of Justice (via e-mail)

Attachment 1

February 26, 2009

DA 09–473

VIA CERTIFIED MAIL

RETURN RECEIPT REQUESTED AND FACSIMILE (510–452–8405)

Mr. Frankie Logyang Wong, c/o David Gerger, 1001 Fannin, Suite 1950, Houston, TX 77002.

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–08–IH–5313

Dear Mr. Wong: The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction of Federal crimes, including conspiracy to commit bribery, conspiracy to launder monetary instruments, and multiple counts of bribery concerning programs receiving Federal funds, in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[11] Consequently, pursuant to 47 C.F.R. § 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[12]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[13] On November 13, 2008, the United States District Court in Texas sentenced you to serve ten years in prison following your conviction of Federal crimes, including conspiracy to commit bribery, conspiracy to launder monetary instruments, and multiple counts of bribery concerning programs receiving Federal funds, in connection with your participation the E-Rate program.[14] In addition, you and a co-conspirator were ordered to forfeit approximately $1 million as a result of your conviction.[15]

As the co-owner and president of Micro Systems Engineering, Inc., (''MSE''), you participated in a bribery and money laundering scheme involving technology projects for the Dallas Independent School District (''DISD''), including a contract that involved E-Rate funds for Funding Year 2002 (''E-Rate FY 2002 Contract'').[16] Beginning in November 2002, MSE and other companies formed a consortium (''Consortium'') for the purpose of submitting a bid proposal relating to E-Rate services for the DISD. While your co-defendant Ruben B. Bohuchot (''Mr. Bohuchot'') was Chief Technology Officer of the Dallas Independent School District,[17] the Consortium submitted a bid proposal for E-Rate services after Mr. Bohuchot adjusted the requirements of DISD's request for proposals to benefit you and your companies. Ultimately, the Consortium's bid was approved by DISD.[18] During the same time period, you and MSE provided things of value to Mr. Bohuchot, including extensive access to and control of large sports-fishing vessels, payment for numerous vacations and various entertainment services and cash.[19] A Federal jury ultimately determined that you and Mr. Bohuchot engaged in a conspiracy to commit bribery and money laundering. As a result of your criminal activity, MSE received at least $35 million in aggregate revenue from DISD and the Universal Service Administrative Company as a result of its participation in the DISD E-Rate FY 2002 Contract.[20]

Pursuant to section 54.8(a)(4) of the Commission's rules,[21] your conviction

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[5] *See* 47 CFR 54.8 (e)(3) and (4). That date occurred no later than April 20, 2009. *See supra* note 3.

[6] *See* Notice of Suspension, 24 FCC Rcd at 2456.

[7] *See id.*

[8] 47 CFR 54.8(c).

[9] *See* 47 CFR 54.8(g). *See also* Notice of Suspension, 24 FCC Rcd at 2457.

[10] *See* 47 CFR 54.8(a)(1), 54.8(a)(5), 54.8(d); Notice of Suspension, 24 FCC Rcd at 2457.

[11] *See* 18 U.S.C. §§ 371 (conspiracy to bribery involving Federal programs), 666(a) (bribery concerning programs receiving Federal funds and aiding and abetting), and 1956(h) (conspiracy to lauder monetary instruments). Any further reference in this letter to ''your conviction'' refers to your ten count conviction. *United States* v. *Frankie Logyang Wong*, Criminal Docket No. 3:07–CR–00167–L–2, Judgment (N.D. Tex. filed Nov. 14, 2008 and entered Nov. 17, 2008) (''*Frankie Wong Judgment''*).

[12] 47 CFR 54.8; 47 CFR 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. *See Schools and Libraries Universal Service Support Mechanism*, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''*Second Report and Order''*) (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.*, Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (*Program Management Order*) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[13] *See Second Report and Order*, 18 FCC Rcd at 9225, para. 66; *Program Management Order*, 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[14] *See supra* note 1. *See also* http://dallas.fbi.gov/dojpressrel/pressrel08/dl111308.htm (accessed Dec. 8, 2008) (''*DOJ November 13, 2008 Frankie Wong Press Release''*); *Frankie Wong Judgment* at 1–2.

[15] *See DOJ November 13, 2008 Frankie Wong Press Release; Frankie Wong Judgment* at 2 and 8.

[16] *See United States* v. *Ruben B. Bohuchot. et al.*, Criminal Docket No. 3:07–CR–167–L–1, Indictment at 1,5–6,15 (N.D.Tex. filed May 22, 2007, and entered May 24, 2007, under seal; unsealed May 29, 2007). (''*DISD Indictment''*); MSE was a computer reseller firm providing computer products and services to large corporations and school districts, principally in the state of Texas. *See DISD Indictment* at 2; *DOJ November 13, 2008 Frankie Wong Press Release* at 1.

[17] In a separate letter, we also serve notice of suspension and initiation of debarment proceedings to Ruben B. Bohuchot for his role in the DISD bribery and money laundering scheme, pursuant to his conviction. *See* Letter from Hillary S. DeNigro, Chief Investigations and Hearings Division, Enforcement Bureau, to Ruben B. Bohuchot, Notice of Suspension and Initiation of Debarment Proceedings, DA 09–471 (Inv. & Hearings Div., Enf. Bur. Feb. 26, 2009).

[18] *See DISD Indictment* at 5–6; *DOJ November 13, 2008 Frankie Wong Press Release*. MSE was able to obtain two contracts with DISD as a result of information that Mr. Wong received from Mr. Bohuchot. *DISD Indictment* at 2–6. In this proceeding, we only address the contract involving E-Rate services.

[19] *DISD Indictment* at 4–5, 7–21; *DOJ November 13, 2008 Frankie Wong Press Release*.

[20] *DISD Indictment* at 6. Based on a winning bid proposal prepared utilizing information that Mr. Wong received from Mr. Bohuchot, MSE received at least $4 million as a subcontractor under another contract with DISD. *See DISD Indictment* at 4; *DOJ November 13, 2008 Frankie Wong Press Release* at 2.

[21] 47 CFR 54.8(a)(4). *See Second Report and Order,* 18 FCC Rcd at 9225–9227, paras. 67–74.

requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[22] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[23]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[24] Such requests, however, will not ordinarily be granted.[25] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[26] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[27]

II. Initiation of Debarment Proceedings

Your conviction of criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[28] Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[29] Absent extraordinary circumstances, the Bureau will debar you.[30] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[31] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register**.[32]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for at least three years from the date of debarment.[33] The Bureau may, if necessary to protect the public interest, extend the debarment period.[34]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Rebekah Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Rebekah Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554. You shall also transmit a copy of the response via e-mail to *Rebekah.Bina@fcc.gov* and to *Vickie.Robinson@fcc.gov*.

If you have any questions, please contact Ms. Bina via mail, by telephone at (202) 418–7931 or by e-mail at *Rebekah.Bina@fcc.gov*. If Ms. Bina is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *Vickie.Robinson@fcc.gov*.

Sincerely yours,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)

Dayle A. Elieson, U.S. Attorney's Office, United States Department of Justice (via mail)

[FR Doc. E9–22961 Filed 9–23–09; 8:45 am]

BILLING CODE 6712–01–P

[22] 47 CFR 54.8(a)(1), (d).

[23] *Second Report and Order*, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[24] 47 CFR 54.8(e)(4).

[25] *Id.*

[26] 47 CFR 54.8(e)(5).

[27] *See Second Report and Order*, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[28] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[29] *See Second Report and Order,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[30] *Second Report and Order,* 18 FCC Rcd at 9227, 74.

[31] *See id.,* 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[32] 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[33] *Second Report and Order*, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[34] 47 CFR 54.8(g).

FEDERAL COMMUNICATIONS COMMISSION

[DA 09–1916]

Notice of Debarment; Schools and Libraries Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the ''Bureau'') debars Mr. Ruben B. Bohuchot from the schools and libraries universal service support mechanism (or ''E–Rate Program'') for a period of three years. The Bureau takes this action to protect the E–Rate Program from waste, fraud and abuse.

DATES: Debarment commences on the date Mr. Ruben B. Bohuchot receives the debarment letter or September 24, 2009, whichever date come first, for a period of three years.

FOR FURTHER INFORMATION CONTACT: Rebekah Bina, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4–C330, 445 12th Street, SW., Washington, DC 20554. Rebekah Bina may be contacted by phone at (202) 418–7931 or e-mail at *Rebekah.Bina@fcc.gov*. If Ms. Bina is unavailable, you may contact Ms. Michele Berlove, Acting Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *michele.berlove@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Bureau debarred Mr. Ruben B. Bohuchot from the schools and libraries universal service support mechanism for a period of three years pursuant to 47 CFR 54.8 and 47 CFR 0.111. Attached is the debarment letter, DA 09–471, which was mailed to Mr. Ruben B. Bohuchot and released on February 26, 2009. The complete text of the notice of debarment is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. In addition, the complete text is

available on the FCC's Web site at *http://www.fcc.gov*. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY–B420, Washington, DC 20554, telephone (202) 488–5300 or (800) 378–3160, facsimile (202) 488–5563, or via e-mail *http://www.bcpiweb.com*.

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission.

August 27, 2009
DA 09–1916

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED AND FACSIMILE (214) 767–2886

Mr. Ruben B. Bohuchot, c/o Richard Alan Anderson, Federal Public Defender—Dallas, 525 Griffin Street, Suite 629, Dallas, TX 75202.

Re: Notice of Debarment, File No. EB–08–IH–5312

Dear Mr. Bohuchot: Pursuant to section 54.8 of the rules of the Federal Communications Commission (the ''Commission''), by this Notice of Debarment you are debarred from the schools and libraries universal service support mechanism (or ''E-Rate program'') for a period of three years.[1]

On February 26, 2009, the Enforcement Bureau (the ''Bureau'') sent you a Notice of Suspension and Initiation of Debarment Proceedings (the ''Notice of Suspension'').[2] That Notice of Suspension was published in the **Federal Register** on March 19, 2009.[3] The Notice of Suspension suspended you from the schools and libraries universal service support mechanism and described the basis for initiation of debarment proceedings against you, the applicable debarment procedures, and the effect of debarment.[4]

Pursuant to the Commission's rules, any opposition to your suspension or its scope or to your proposed debarment or its scope had to be filed with the Commission no later than thirty (30) calendar days from the earlier date of your receipt of the Notice of Suspension or publication of the Notice of Suspension in the **Federal Register.**[5] The Commission did not receive any such opposition.

As discussed in the Notice of Suspension, the United States District Court in Texas sentenced you to serve eleven years in prison following your conviction of federal crimes, including conspiracy to commit bribery involving federal funds, conspiracy to launder monetary instruments, multiple counts of bribery involving federal funds, and other related offenses, in connection with your participation in the E-Rate program.[6] Evidence at trial demonstrated that, in your position as the former Chief Technology Officer of the Dallas Independent School District (''DISD''), you participated in a bribery and money laundering scheme involving DISD technology projects, including a contract that involved E-Rate funds.[7] Such conduct constitutes the basis for your debarment, and your conviction falls within the categories of causes for debarment under section 54.8(c) of the Commission's rules.[8] For the foregoing reasons, you are hereby debarred for a period of three years from the debarment date, i.e., the earlier date of your receipt of this Notice of Debarment or its publication date in the **Federal Register**.[9] Debarment excludes you, for the debarment period, from activities ''associated with or related to the schools and libraries support mechanism,'' including ''the receipt of funds or discounted services through the schools and libraries support mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.'' [10]

Sincerely,

Hillary S. DeNigro,
Chief, Investigations and Hearings Division Enforcement Bureau.

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)
Dayle A. Elieson, U.S. Attorney's Office, United States Department of Justice (via mail)

Attachment 1

February 26, 2009
DA 09–471

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED AND FACSIMILE (510–452–8405)

Mr. Ruben B. Bohuchot, c/o Richard Alan Anderson, Federal Public Defender—Dallas, 525 Griffin Street, Suite 629, Dallas, TX 75202.

Re: Notice of Suspension and Initiation of Debarment Proceedings, File No. EB–08–IH–5312

Dear Mr. Bohuchot: The Federal Communications Commission (''FCC'' or ''Commission'') has received notice of your conviction of federal crimes, including conspiracy to commit bribery, conspiracy to launder monetary instruments, multiple counts of bribery concerning programs receiving federal funds, obstruction of justice and making false statements on tax returns, in connection with your participation in the schools and libraries universal service support mechanism (''E-Rate program'').[11] Consequently, pursuant to 47 CFR § 54.8, this letter constitutes official notice of your suspension from the E-Rate program. In addition, the Enforcement Bureau (''Bureau'') hereby notifies you that we are commencing debarment proceedings against you.[12]

I. Notice of Suspension

The Commission has established procedures to prevent persons who have ''defrauded the government or engaged in similar acts through activities associated with or related to the schools and libraries support mechanism'' from receiving the benefits associated with that program.[13] On November 12, 2008, the United States District Court in Texas sentenced you to serve eleven years in prison following your conviction of federal crimes, including conspiracy to commit bribery involving federal funds, conspiracy to launder monetary instruments, multiple counts of bribery involving federal funds, and other related offenses in connection with your participation in the E-Rate program.[14] In addition, you and a co-

[1] See 47 CFR 0.111(a), 54.8.

[2] Letter from Hillary S. DeNigro, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Mr. Ruben B. Bohuchot, Notice of Suspension and Initiation of Debarment Proceedings, 24 FCC Rcd 2448 (Inv. & Hearings Div., Enf. Bur. 2009) (Attachment 1) (''Notice of Suspension''). In the Notice of Suspension, the Bureau referred to your frauds as being associated with E-Rate Funding Year 2002. See Notice of Suspension at 2448. The proper funding year associated with your fraud is E-Rate Program 6 and should be noted as Funding Year 2003. See United States v. Ruben B. Bohuchot. et al., Criminal Docket No. 3:07–CR–167–L–2, Indictment at 5 (N.D.Tex. filed May 22, 2007, and entered May. 24, 2007, under seal; unsealed May 29, 2007). (''DISD Indictment'').

[3] 74 FR 11722 Mar. 19, 2009.

[4] See Notice of Suspension, 24 FCC Rcd at 2448–49.

[5] See 47 CFR 54.8 (e)(3) and (4). That date occurred no later than April 20, 2009. See supra note 3.

[6] See Notice of Suspension, 24 FCC Rcd at 2448.

[7] See id.

[8] 47 CFR 54.8(c).

[9] See 47 CFR 54.8(g). See also Notice of Suspension, 24 FCC Rcd at 2449.

[10] See 47 CFR 54.8(a)(1), 54.8(a)(5), 54.8(d); Notice of Suspension, 24 FCC Rcd at 2449.

[11] See 18 U.S.C. §§ 371 (conspiracy to bribery involving federal programs), 666(a)(1)(B) and 2 (bribery concerning programs receiving federal funds and aiding and abetting), 1512(c) (obstructing and impeding an official proceeding), and 1956(h) (conspiracy to launder monetary instruments) and 26 U.S.C. § 7206(1) (false statements on a tax return). Any further reference in this letter to ''your conviction'' refers to your thirteen count conviction. United States v. Ruben B. Bohuchot, Criminal Docket No. 3:07–CR–00167–L–1, Judgment (N.D. Tex. filed Nov. 14, 2008 and entered Nov. 17, 2008; amended Nov. 25, 2008) (''Ruben Bohuchot Judgment'').

[12] 47 CFR § 54.8; 47 CFR § 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the schools and libraries universal service support mechanism in 2003. See Schools and Libraries Universal Service Support Mechanism, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (''Second Report and Order'') (adopting section 54.521 to suspend and debar parties from the E-rate program). In 2007, the Commission extended the debarment rules to apply to all of the Federal universal service support mechanisms. Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Report and Order, 22 FCC Rcd 16372, 16410–12 (2007) (Program Management Order) (renumbering section 54.521 of the universal service debarment rules as section 54.8 and amending subsections (a)(1), (5), (c), (d), (e)(2)(i), (3), (e)(4), and (g)).

[13] See Second Report and Order, 18 FCC Rcd at 9225, para. 66; Program Management Order, 22 FCC Rcd at 16387, para. 32. The Commission's debarment rules define a ''person'' as ''[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however, organized.'' 47 CFR 54.8(a)(6).

[14] See supra note 1. See also *http://dallas.fbi.gov/dojpressrel/pressrel08/dl111208.htm* (accessed Dec.

conspirator will have to forfeit approximately $1 million as a result of your conviction.[15]

As the former Chief Technology Officer of the Dallas Independent School District (''DISD''), you were in charge of procuring technology contracts for DISD. In this position, you participated in a bribery and money laundering scheme involving DISD technology projects, including a contract that involved E-Rate funds for Funding Year 2002 (''E-Rate FY 2002 Contract'').[16] Specifically, you provided assistance to the efforts of your co-defendant, Frankie Logyang Wong (''Mr. Wong''), former co-owner and president of Micro Systems Engineering, Inc. (''MSE''),[17] which enabled MSE to obtain a contract to provide E-Rate services to DISD.[18] In exchange for your role in helping MSE obtain the E-Rate FY 2002 Contract, you received bribes that included extensive access to and control of large sports-fishing vessels, payment for numerous vacations and various entertainment services, and cash that you attempted to disguise as repayments from another individual for living expenses.[19] MSE received at least $35 million in aggregate revenue from DISD and the Universal Service Administrative Company as a result of its participation in the DISD E-Rate FY 2002 Contract.[20]

Pursuant to section 54.8(a)(4) of the Commission's rules,[21] your conviction requires the Bureau to suspend you from participating in any activities associated with or related to the schools and libraries fund mechanism, including the receipt of funds or discounted services through the schools and libraries fund mechanism, or consulting with, assisting, or advising applicants or service providers regarding the schools and libraries support mechanism.[22] Your suspension becomes effective upon the earlier of your receipt of this letter or publication of notice in the **Federal Register**.[23]

Suspension is immediate pending the Bureau's final debarment determination. In accordance with the Commission's debarment rules, you may contest this suspension or the scope of this suspension by filing arguments in opposition to the suspension, with any relevant documentation. Your request must be received within 30 days after you receive this letter or after notice is published in the **Federal Register**, whichever comes first.[24] Such requests, however, will not ordinarily be granted.[25] The Bureau may reverse or limit the scope of suspension only upon a finding of extraordinary circumstances.[26] Absent extraordinary circumstances, the Bureau will decide any request for reversal or modification of suspension within 90 days of its receipt of such request.[27]

II. Initiation of Debarment Proceedings

Your conviction of criminal conduct in connection with the E-Rate program, in addition to serving as a basis for immediate suspension from the program, also serves as a basis for the initiation of debarment proceedings against you. Your conviction falls within the categories of causes for debarment defined in section 54.8(c) of the Commission's rules.[28] Therefore, pursuant to section 54.8(a)(4) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.

As with your suspension, you may contest debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within 30 calendar days of the earlier of the receipt of this letter or of publication in the **Federal Register**.[29] Absent extraordinary circumstances, the Bureau will debar you.[30] Within 90 days of receipt of any opposition to your suspension and proposed debarment, the Bureau, in the absence of extraordinary circumstances, will provide you with notice of its decision to debar.[31] If the Bureau decides to debar you, its decision will become effective upon the earlier of your receipt of a debarment notice or publication of the decision in the **Federal Register.**[32]

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the schools and libraries support mechanism for at least three years from the date of debarment.[33] The Bureau may, if necessary to protect the public interest, extend the debarment period.[34]

Please direct any response, if by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002, to the attention of Rebekah Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4–C330, Federal Communications Commission. If sent by commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail), the response should be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by first-class, Express, or Priority mail, the response should be sent to Rebekah Bina, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554, with a copy to Vickie Robinson, Assistant Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW., Room 4–C330, Washington, DC 20554. You shall also transmit a copy of the response via e-mail to *Rebekah.Bina@fcc.gov* and to *Vickie.Robinson@fcc.gov*.

If you have any questions, please contact Ms. Bina via mail, by telephone at (202) 418–7931 or by e-mail at *Rebekah.Bina@fcc.gov*. If Ms. Bina is unavailable, you may contact Ms. Vickie Robinson, Assistant Chief, Investigations and Hearings Division, by telephone at (202) 418–1420 and by e-mail at *Vickie.Robinson@fcc.gov*.

Sincerely yours,

Hillary S. DeNigro,

Chief, Investigations and Hearings Division, Enforcement Bureau.

8, 2008) (''DOJ November 12, 2008 Ruben Bohuchot Press Release''); Ruben Bohuchot Judgment at 1–2.

[15] See DOJ November 12, 2008 Ruben Bohuchot Press Release; Ruben Bohuchot Judgment at 2 and 8.

[16] See United States v. Ruben B. Bohuchot. et al., Criminal Docket No. 3:07–CR–167–L–2, Indictment at 1,5–6,15 (N.D. Tex. filed May 22, 2007, and entered May 24, 2007, under seal; unsealed May 29, 2007). (''DISD Indictment''); see also DOJ November 12, 2008 Ruben Bohuchot Press Release.

[17] In a separate letter, we also serve notice of suspension and initiation of debarment proceedings to Frankie Logyang Wong for his role in the DISD bribery and money laundering scheme, pursuant to his conviction. See Letter from Hillary S. DeNigro, Chief Investigations and Hearings Division, Enforcement Bureau, to Frankie Logyang Wong, Notice of Suspension and Initiation of Debarment Proceedings, DA 09–473 (Inv. & Hearings Div., Enf. Bur. Feb. 26, 2009). MSE operated as a computer reseller firm providing computer products and services to large corporations and school districts. See DISD Indictment at 2.

[18] See DISD Indictment at 5–6; DOJ November 12, 2008 Ruben Bohuchot Press Release. MSE was able to obtain two contracts with DISD worth approximately $120 million as a result of information that Mr. Wong received from Mr. Bohuchot. DISD Indictment at 2–4. In this proceeding, we only address the contract involving E-Rate services.

[19] DISD Indictment at 4–5, 7–21; DOJ November 12, 2008 Ruben Bohuchot Press Release.

[20] DISD Indictment at 6. Based on a winning bid proposal prepared utilizing information that Mr. Wong received from Mr. Bohuchot, MSE received at least $4 million as a subcontractor under another contract with DISD. See DISD Indictment at 4; DOJ November 12, 2008 Ruben Bohuchot Press Release at 2.

[21] 47 CFR 54.8(a)(4). See Second Report and Order, 18 FCC Rcd at 9225–9227, paras. 67–74.

[22] 47 CFR 54.8(a)(1), (d).

[23] Second Report and Order, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

[24] 47 CFR 54.8(e)(4).

[25] Id.

[26] 47 CFR 54.8(e)(5).

[27] See Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), 54.8(f).

[28] ''Causes for suspension and debarment are the conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism.'' 47 CFR 54.8(c). Such activities ''include the receipt of funds or discounted services through [the Federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the Federal universal service] support mechanisms.'' 47 CFR 54.8(a)(1).

[29] See Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

[30] Second Report and Order, 18 FCC Rcd at 9227, para. 74.

[31] See id., 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

[32] 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. 47 CFR 54.8(f).

[33] Second Report and Order, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d), 54.8(g).

[34] 47 CFR 54.8(g).

cc: Kristy Carroll, Esq., Universal Service Administrative Company (via e-mail)
Dayle A. Elieson, U.S. Attorney's Office, United States Department of Justice (via mail).

[FR Doc. E9–22968 Filed 9–23–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 08–214; DA 09–1855]

Herring Broadcasting, Inc. v. Time Warner Cable Inc., et al.

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document clarifies that parties are entitled to file exceptions to the recommended decision of the Administrative Law Judge in the proceedings listed in the **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact David Konczal, *David.Konczal@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Order, DA 09–1855, adopted and released on August 31, 2009. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis of the Order

1. On October 10, 2008, the Media Bureau issued a *Memorandum Opinion and Hearing Designation Order* (''*HDO*'') referring the above-captioned matters to an Administrative Law Judge for recommended decisions. 73 FR 65312, November 3, 2008. In the *HDO*, the Media Bureau directed an ALJ to resolve the factual disputes with respect to the claims in each of the above-captioned cases and to ''return a recommended decision and a recommended remedy, if necessary, to the Commission * * *.'' *See id.* at 65327–28. The *HDO* also stated that, upon receipt of the ALJ's recommended decision and remedy, the Commission would make the requisite legal determinations and decide upon appropriate remedies, if necessary. *See id.* The *HDO* failed to specify whether parties are entitled to file exceptions to the ALJ's recommended decision. We issue this *Order, sua sponte,* to remove uncertainty surrounding this issue and clarify that parties are entitled to file exceptions to the ALJ's recommended decision. We direct parties that choose to file exceptions to comply with the procedures and deadlines set forth in Sections 1.276 and 1.277 of the Commission's rules. Sections 1.276 and 1.277 of the Commission's rules pertain to appeal and review of initial decisions. *See* 47 CFR 1.276, 1.277. As applied here, these rules allow parties to file exceptions to or briefs in support of the ALJ's recommended decision within 30 days after public release of the full text of the recommended decision. *See* 47 CFR 1.276(a). These rules also provide that parties may file reply briefs within ten days after the time for filing exceptions has expired. *See* 47 CFR 1.277(c).

2. Accordingly, *It is ordered,* pursuant to Sections 4(i), 4(j), and 409(b) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 409(b), and Section 1.2 of the Commission's rules, 47 CFR 1.2, that parties in the below-captioned matters may file exceptions to the ALJ's recommended decision pursuant to the procedures set forth herein.

3. *It is further ordered* that all parties to the below-captioned proceedings will be served with a copy of this *Order* by e-mail and by certified mail, return receipt requested.

4. *It is further ordered* that a copy of this *Order,* or a summary thereof, *Shall Be Published* in the **Federal Register**.

5. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission's rules. *See* 47 CFR 0.283.

Herring Broadcasting, Inc. d/b/a WealthTV, *Complainant* v. *Time Warner Cable Inc.,* Defendant; File No. CSR–7709–P
Herring Broadcasting, Inc. d/b/a WealthTV, *Complainant* v. *Bright House Networks, LLC,* Defendant; File No. CSR–7822–P
Herring Broadcasting, Inc. d/b/a WealthTV, *Complainant* v. *Cox Communications, Inc.,* Defendant; File No. CSR–7829–P
Herring Broadcasting, Inc. d/b/a WealthTV, *Complainant* v. *Comcast Corporation,* Defendant; File No. CSR–7907–P
TCR Sports Broadcasting Holding, L.L.P., d/b/a Mid-Atlantic Sports Network, *Complainant* v. *Comcast Corporation,* Defendant; File No. CSR–8001–P

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

[FR Doc. E9–22828 Filed 9–23–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0029]

Federal Acquisition Regulation; Submission for OMB Review; Extraordinary Contractual Action Requests

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance (9000–0029).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning extraordinary contractual action requests. A request for public comments was published at 74 FR 32165, July 7, 2009. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and

clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 26, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Contract Policy Division, GSA (202) 501–1448 or e-mail *Beverly.cromer@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

This request covers the collection of information as a first step under Public Law 85–804, as amended by Public Law 93–155 and Executive Order 10789 dated November 14, 1958, that allows contracts to be entered into, amended, or modified in order to facilitate national defense. In order for a firm to be granted relief under the Act, specific evidence must be submitted which supports the firm's assertion that relief is appropriate and that the matter cannot be disposed of under the terms of the contract.

The information is used by the Government to determine if relief can be granted under the Act and to determine the appropriate type and amount of relief.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows:

Respondents: 100.

Responses Per Respondent: 1.

Total Responses: 100.

Hours per Response: 16.

Total Burden Hours: 1,600.

Obtaining Copies of Proposals: Requester may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0029, Extraordinary Contractual Action Requests, in all correspondence.

Dated: September 17, 2009.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. E9–23088 Filed 9–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0147]

Federal Acquisition Regulation; Submission for OMB Review; Pollution Prevention and Right-to-Know Information

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0147).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning pollution prevention and right-to-know information. A request for public comments was published in the **Federal Register** at 74 FR 32163 on July 7, 2009. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 26, 2009.

ADDRESSES: Submit comments, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: William Clark, Contract Policy Division, GSA, (202) 219–1813 or e-mail *william.clark@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation (FAR) subpart 23.10, implements Executive Order (E.O.) 13148 of April 21, 2000, *Greening the Government through Leadership in Environmental Management,* and it also provides a means for agencies to obtain contractor information for the implementation of environmental management systems (EMSs) and the completion of facility compliance audits (FCAs) at certain Federal facilities. This information collection will be accomplished by means of Alternates I and II to FAR clause 52.223–5. Alternate I of 52.223–5 require contractors to provide information needed by a Federal facility to implement an EMS and Alternate II of 52.223–5 requires contractors to complete an FCA. FAR subpart 23.10 and its associated contract clause at FAR 52.223–5 also implement the requirements of E.O. 13148 to require that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101–13109), and the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11001–11050). The E.O. requires that contracts to be performed on a Federal facility provide for the contractor to supply to the Federal agency all information the Federal agency deems necessary to comply with these reporting requirements.

B. Annual Reporting Burden

Number of Respondents: 7,460.
Responses per Respondent: 1.
Annual Responses: 7,460.
Average Burden per Response: 2.834.
Total Burden Hours: 21,140.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–0147, Pollution Prevention and Right-to-Know Information, in all correspondence.

Dated: September 17, 2009.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. E9–23091 Filed 9–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Contrl No. 9000–0078]

Federal Acquisition Regulation; Submission for OMB Review; Make-or-Buy Program

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for reinstatement of an information collection requirement for an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection requirement concerning Make-or-Buy Program. Requests for public comments were published in the **Federal Register** at 74 FR 32164, July 7, 2007. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary; whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 26, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: General Services Administration (GSA), OMB Desk Officer, Room 10236, NEOB, Washington, DC 20503, and send a copy to the Regulatory Secretariat (VPR), 1800 F Street NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0078, Make-or-Buy Program, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, Contract Policy Division, GSA, (202) 501–3221 or *Edward.Chambers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Price, performance, and/or implementation of socio-economic policies may be affected by make-or-buy decisions under certain Government prime contracts. Accordingly, FAR 15.407–2, Make-or-Buy Programs—

(i) Sets forth circumstances under which a Government contractor must submit for approval by the contracting officer a make-or-buy program, i.e., a written plan identifying major items to be produced or work efforts to be performed in the prime contractor's facilities and those to be subcontracted;

(ii) Provides guidance to contracting officers concerning the review and approval of the make-or-buy programs; and

(iii) Prescribes the contract clause at FAR 52.215–9, Changes or Additions to Make-or-Buy Programs, which specifies the circumstances under which the contractor is required to submit for the contracting officer's advance approval a notification and justification of any proposed change in the approved make-or-buy program.

The information is used to assure the lowest overall cost to the Government for required supplies and services.

B. Annual Reporting Burden

Respondents: 150.

Responses Per Respondent: 3.

Total Responses: 450.

Hours per Response: 8.

Total Burden Hours: 3,600.

Obtaining Copies Of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0078, Make-or-Buy Program, in all correspondence.

Dated: September 17, 2009.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. E9–23090 Filed 9–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0027]

Federal Acquisition Regulation; Submission for OMB Review; Value Engineering Requirements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of reinstatement request for an information collection requirement regarding an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning value engineering requirements. A request for public comments was published in the **Federal Register** at 74 FR 32166, on July 7, 2009. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 26, 2009.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405. Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jeritta Parnell, Contract Policy Division, GSA (202) 501–4082 or e-mail *jeritta.parnell@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Value engineering is the technique by which contractors (1) voluntarily suggest methods for performing more economically and share in any resulting savings or (2) are required to establish a program to identify and submit to the Government methods for performing more economically. These recommendations are submitted to the Government as value engineering change proposals (VECP's) and they must include specific information. This information is needed to enable the Government to evaluate the VECP and, if accepted, to arrange for an equitable sharing plan.

B. Annual Reporting Burden

Respondents: 400.
Responses per Respondent: 4.
Annual Responses: 1,600.
Hours per Response: 30.
Total Burden Hours: 48,000.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0027, Value Engineering Requirements, in all correspondence.

Dated: September 17, 2009.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. E9–23089 Filed 9–23–09; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Nagendra S. Ningaraj, PhD, Vanderbilt University School of Medicine: Based on the reports of an investigation conducted by Vanderbilt University School of Medicine (VUSM) and additional analysis by the Division of Investigative Oversight (DIO), ORI, in its oversight review, found that Nagendra S. Ningaraj, PhD, former Associate Professor of Neurological Surgery and Cancer Biology, VUSM, engaged in scientific misconduct by falsifying MALDI–MS images and mass spectral tracings and associated text in Figure 21 reported in National Cancer Institute (NCI), National Institutes of Health (NIH), grant application 1 U54 CA119421–01 and by falsifying MALDI–MS images in a presentation during the American Association for Cancer Research (AACR) meeting held on April 16–20, 2005, which cited support from NCI, NIH, grants R25 CA92943 and P50 CA098131.

Specifically, ORI found that:

1. Respondent reversed the images for the control and minoxidil-treated brains in Figure 21 of the 1 U54 CA119421–01 grant application, claiming that minoxidil increased delivery of Gleevec to the tumor. Respondent also reversed the same images in a presentation during the AACR meeting in April 2005.

2. In Figure 21 of the 1 U54 CA119421–01 grant application, Respondent reported mass spectral tracings as having been obtained from brain tumors in Gleevec-treated mice that had been pretreated with minoxidil, while in fact they were pretreated with another potassium channel opener, NS1619, and Respondent falsely stated the minoxidil pretreatment caused an 8-fold increase in Gleevec delivery to brain tumors (compared to non-minoxidil pretreated tumors).

3. Respondent further falsified Figure 21 of the 1 U54 CA119421–01 grant application by juxtaposing the reversed MALDI–MS images (obtained with mioxidil) with the mass spectral tracings (obtained with NS1619) in the same figure and by failing to report that the images and spectra in the figure were actually obtained in totally different experiments, performed on different dates and with different K^+ agonist pretreatments.

Dr. Ningaraj has entered into a Voluntary Settlement Agreement in which he has voluntarily agreed, for a period of three (3) years, beginning on August 31, 2009:

(1) To be prohibited from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant;

(2) That any institution that submits an application for PHS support for a research project on which the Respondent's participation is proposed or which uses him in any capacity on PHS-supported research or that submits a report of PHS-funded research on which he is involved must submit a plan for supervision of his duties to the funding agency for approval no later than a month before the scheduled funding; the supervisory plan must be designed to ensure the scientific integrity of his research contribution; a copy of the supervisory plan also must be submitted to ORI by the institution; Respondent agrees that he will not participate in any PHS-supported research until such a supervisory plan is submitted to ORI; and

(3) Respondent will ensure that any institution employing him submits, in conjunction with each application for PHS funds or any report, manuscript, or abstract of PHS-funded research in which he is involved, a certification that the data provided by him are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application or report. Respondent must ensure that the institution send the certification to ORI. The certification shall be submitted no later than one month before funding and concurrently with any report, manuscript, or abstract.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

John Dahlberg,

Director, Division of Investigative Oversight, Office of Research Integrity.

[FR Doc. E9–23046 Filed 9–23–09; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Submission for OMB Review; Comment Request; NEXT Generation Health Study

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on July 17, 2009, Volume 74, Number 136, pages 34760–34761 and allowed 60 days for public comment. Two public comments were received. One questioned the value of

this study and suggested that the study could not possibly be completed within the stated cost estimates. We have always conducted extremely efficient studies within stated cost estimates. The value of this research is demonstrated by the involvement of multiple government agencies. The second e-mail simply expressed interest in more information. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection:

Title: NEXT Generation Health Study.

Type of Information Collection Request: New.

Need and Use of Information Collection:

The goal of this research is to obtain data on adolescent health and health behaviors annually for four years beginning in the 2009–2010 school year from a national probability sample of adolescents. This information will enable the improvement of health services and programs for youth. The study will provide needed information about the health of U.S. adolescents.

The study will collect information on adolescent health behaviors and social and environmental contexts for these behaviors annually for four years beginning in the 2009–2010 school year. Self-report of health status, health behaviors, and health attitudes will be collected by in-school and online surveys. Anthropometric data, genetic information, and neighborhood characteristics will be gathered on all participants as well. The study will also incorporate a School Administrator Survey and other data files to obtain related information on school-level health programs and community-level contextual data. A representative subsample of overweight and normal weight adolescents will be identified and additional data on behavioral risk factors and biological markers and risk factors will be gathered on these adolescents.

TABLE 1—ANNUAL BURDEN FOR AFFECTED PUBLIC: SCHOOL-AGE CHILDREN, PARENTS AND SCHOOL ADMINISTRATORS

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adolescents	2,700	1	0.75	11, 004
Adolescents with additional assessments	750	1	2.5	1,875
Parents	750	1	0.17	128
School Administrators	80	1	0.33	26

The estimated annualized cost to respondents is $8,199 (Table 2). These costs were estimated for the 2009/2010 survey year only, not the entire duration of the project; annualized over the entire duration of the project, these costs would be reduced to $3,261. These estimates were calculated using 2008 Department of Labor figures for wages of principals in high schools (grades 9 and 10) and of average wage and salaried employees, and assuming an annual increase of 3.75%, 50-week contract, and 40-hour week.

TABLE 2—ANNUAL COST TO RESPONDENTS—2009/2010 SURVEY YEAR ONLY

Type of respondents	Estimated total annual burden hours requested	Estimated annual earnings during survey	Average hourly earnings (with rounding)	Estimated cost during survey year
Adolescents	11,004	$0.00	$0.00	$0.00
Adolescents with additional assessments	1,875	0.00	0.00	0.00
Parents	128	42,270	21.93	2,807
School Administrators	26	84,913	42.46	5,392

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

No direct costs to the respondents themselves or to participating schools are anticipated.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Ronald Iannotti, Prevention Research Branch, Division of Epidemiology, Statistics, and Prevention Research, Eunice Kennedy Shriver National Institute of Child Health and Human Development, Building 6100, 7B05, 9000 Rockville Pike, Bethesda, Maryland, 20892–7510, or call non-toll free number (301) 435–6951 or E-mail your request, including your address to *ri25j@nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: September 21, 2009.

Sarah Glavin,

Project Clearance Liaison, NICHD, National Institutes of Health.

[FR Doc. E9–23125 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–0920–0747]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Maryam I. Daneshvar, CDC Acting Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Longitudinal follow-up of Youth with Attention-Deficit/Hyperactivity Disorder identified in Community Settings: Examining Health Status, Correlates, and Effects associated with treatment for Attention-Deficit/Hyperactivity Disorder [OMB #0920–0747 exp. 7/31/1010]—Revision—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This project will collect data from proxy respondents and youths with and without ADHD. This program addresses the Healthy People 2010 focus area of Mental Health and Mental Disorders, and describes the prevalence, incidence, long-term outcomes, treatment(s), select co-morbid conditions, secondary conditions, and health risk behavior of youth with ADHD relative to youth without ADHD.

The National Center on Birth Defects and Developmental Disabilities at CDC promotes the health of children with developmental disorders. As part of these efforts, two contracts were awarded in FY 2007–2010 to follow up a sample of children originally enrolled in community-based epidemiological research on ADHD among elementary-aged youth, known as the Project to Learn about ADHD in Youth (PLAY Study Collaborative), which informed community-based prevalence, rates of comorbidity, and rates of health risk behaviors among elementary-age youth with and without ADHD as determined by a rigorous case definition developed by the principal investigators and in collaboration with CDC scientists.

The purpose of the longitudinal follow-up program is to study the long-term outcomes and health status for children with Attention-Deficit/Hyperactivity Disorder (ADHD) identified and treated in community settings through a systematic follow-up of the subjects who participated in the PLAY Study Collaborative. There is a considerable interest in the long-term outcomes of youth with ADHD as well as the effects of treatment, lack of treatment, and quality of care in average US communities, emphasizing the public health importance of longitudinal research in this area.

Given the lack of detailed information about longitudinal development in children with and without ADHD, there is need to continue assessing the children into older adolescence. This program extends data collection for two additional waves.

Minor changes to the assessment instruments are planned in order to include age appropriate assessment of treatment and health risk behaviors in older adolescents, such as understanding motor vehicle operation and dating behavior.

There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Survey instruments (by type of respondent)	Number of respondents	Number of responses/ respondent	Avg. burden/ response in hours	Total burden (in hours)
Parent:				
ADHD Communication and Knowledge	190	1	10/60	32
ADHD Treatment, Cost, and Client Satisfaction Questionnaire	190	1	10/60	32
ADHD Treatment Questionnaire	190	3	7/60	67
Brief Impairment Scale	190	1	4/60	13
Critical School Events (Middle School)	37	2	4/60	5
Critical School Events (High School)	153	2	4/60	20
Demographic Survey	190	1	5/60	16
Health Risk Behavior Survey (Middle School) 11–13 years	37	1	18/60	14
Health Risk Behavior Survey High School, 14+ years	153	1	22/60	71
Parent-Child Relationship Inventory	190	1	15/60	48
Parents' Mental Health Questionnaire	178	1	5/60	15
Quarterly update form	190	3	1/60	10
Social Isolation/Support	178	1	2/60	6
Strengths and Difficulties Questionnaire (SDQ)	190	2	3/60	19
Vanderbilt Parent Rating Scale	190	2	10/60	63
Child:				
Brief Sensation Seeking Scale	190	1	1/60	3
Conflict in Adolescent Dating Relationships	153	1	10/60	26
Health Risk Behavior Survey (Middle School) 11–13 years	37	1	30/60	19
Health Risk Behavior Survey (High School)14+ years	153	1	45/60	115

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Survey instruments (by type of respondent)	Number of respondents	Number of responses/ respondent	Avg. burden/ response in hours	Total burden (in hours)
MARSH—Self Description Questionnaire v I, 7–12 years	15	1	15/60	4
MARSH—Self Description Questionnaire v II, 13–15 years	90	1	20/60	30
MARSH—Self Description Questionnaire v III 16+ years	85	1	20/60	28
Pediatric Quality of Life Child (8–12)	15	1	5/60	1
Pediatric Quality of Life Teen (13+)	175	1	5/60	15
Youth Demographic Survey, 16+ years	85	1	1/60	1
Teacher:				
Teacher Survey	949	1	10/60	158
Total	1317			831

Dated: September 17, 2009.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–23027 Filed 9–23–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-09–09AC]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Occupational Injuries and Illnesses Among Emergency Medical Services (EMS) Workers: A NEISS–Work Telephone Interview Survey—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Studies have reported that EMS workers have higher rates of non-fatal injuries and illnesses as compared to the general worker population. As EMS professionals are tasked with protecting the health of the public and treating urgent medical needs, it follows that understanding and preventing injuries and illnesses among EMS workers will have a benefit reaching beyond the workers to the general public.

As mandated in the Occupational Safety and Health Act of 1970 (Pub.L 91–596), the mission of NIOSH is to conduct research and investigations on occupational safety and health. Related to this mission, the purpose of this project is to conduct research that will provide a detailed description of non-fatal occupational injuries and illnesses incurred by EMS workers. The project will use two related data sources. The first source is data abstracted from medical records of EMS workers treated in a nationally stratified sample of emergency departments. These data are routinely collected by the occupational supplement to the National Electronic Injury Surveillance System (NEISS–Work). The second data source, for which NIOSH is seeking OMB approval, is responses to telephone interview surveys of the injured and ill EMS workers identified within NEISS–Work.

The proposed telephone interview surveys will supplement NEISS–Work data with an extensive description of EMS worker injuries and illnesses, including worker characteristics, injury types, injury circumstances, injury outcomes, and use of personal protective equipment. Previous reports describing occupational injuries and illnesses to EMS workers provide limited details on specific regions or sub-segments of the population. As compared to these earlier studies, the scope of the telephone interview data will be broader as it includes sampled cases nationwide and has no limitations in regards to type of employment (*i.e.,* volunteer versus career). Results from the telephone interviews will be weighted and reported as national estimates.

The sample size for the telephone interview survey is estimated to be approximately 175 EMS workers annually for the proposed four year duration of the study. This estimate is based on the number of EMS workers identified in previous years of NEISS–Work data and a 50% response rate that is comparable to the rate of previously conducted National Electronic Injury Surveillance System telephone interview studies. Each telephone interview will take approximately 20 minutes to complete, resulting in an annualized burden estimate of 58 hours.

This project is a collaborative effort between the Division of Safety Research in the NIOSH and the Office of Emergency Medical Services in the National Highway Traffic Safety Administration. Both agencies have a strong interest in improving surveillance of EMS worker injuries and illnesses to provide the information necessary for effectively targeting and implementing prevention efforts and, consequently, reducing occupational injuries and illnesses among EMS workers.

There is no cost to respondents other than their time. The total estimated annualized burden hours are 58.

Estimated Annualized Burden Hours

Type of respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
EMS workers	175	1	20/60

Dated: September 15, 2009.

Maryam Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E9–23026 Filed 9–23–09; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Notice of Non-Competitive Award of Funding to the Communities Advocating Emergency AIDS Relief (CAEAR) Coalition Foundation, Inc

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of Non-Competitive Award of Funding to the Communities Advocating Emergency AIDS Relief (CAEAR) Coalition Foundation, Inc.

SUMMARY: This **Federal Register** Notice announces the non-competitive extension of Grant Number U69HA07626, Supporting Networks of HIV Care by Enhancing Primary Medical Care (SNHC by EPMC), to the CAEAR Coalition Foundation, Inc., the awardee of record, for one additional year, through August 31, 2010, at a funding level of approximately $1,451,445. The purpose of the award extension is to allow for the completion of ongoing work and an external evaluation assessment of the project's activities undertaken during the project period of September 1, 2006, through August 31, 2009, before a new competitive cycle is started. Evaluation findings will help HRSA frame a new competitive opportunity in fiscal year (FY) 2010. The authority for this funding is the Public Health Service Act, section 2692, 42 U.S.C. § 300ff–111, as amended by the Ryan White HIV/AIDS Treatment Modernization Act of 2006 (Pub. L. 109–415); it can be viewed under the Catalog for Federal Domestic Assistance (CFDA) Number 93.145.

SUPPLEMENTARY INFORMATION: HRSA's HIV/AIDS Bureau's (HAB), Division of Training and Technical Assistance (DTTA), awarded the current awardee non-competitive funding for FY 2009 for a fourth and final project year September 1, 2009, through August 31, 2010, in the amount of $1,451,445, which represents $2,085,822 less than awarded in fiscal year FY 2008 for year three activities.

The SNHC by EPMC is solely funded by the Secretary of Health and Human Services' Minority AIDS Initiative (MAI) and utilizes innovative strategies and activities specifically targeted to the highest risk and hardest-to-serve minority populations and communities of color. The SNHC by EPMC is a national technical assistance (TA) and capacity building project with the goal to ensure providers' ability to serve ethnic/racial minority communities; enable providers to adapt to an environment of few resources, rising costs, and growing HIV/AIDS prevalence; integrate new providers into systems of HIV care; and identify and deliver best practices and clinical guidelines to ultimately improve the lives of those impacted by HIV/AIDS.

Owing to unanticipated changes and delays in initiating the originally proposed projected activities and the evaluation of the program, additional time and resources are necessary to conclude the proposed activities and the external evaluation of the project's activities. This evaluation and assessment, to be completed between September 1, 2009, and November 30, 2009, are critical to HRSA in developing a new competitive opportunity in fiscal year (FY) 2010 that more specifically targets the needs of primary care organizations that treat individuals with HIV/AIDS, and provides more refined approaches to the conduct of technical assistance and training that supports and sustains such organizations.

By non-competitively awarding funds to the current grantee, CAEAR Coalition Foundation, Inc., in the fourth year, the external evaluation will be able to take into account the complete collection of case studies and provide a meta-analysis, thereby furthering the Agency's understanding of capacity needs of HIV service providers and allowing for better targeted future funding decisions. Given the importance and visibility of this departmental initiative, it is critical that this project be assessed and evolve in a manner that addresses the ever changing HIV epidemic and its impact on marginalized populations and the safety net providers that serve them.

FOR FURTHER INFORMATION CONTACT: Lauresa T. Washington, Health Resources and Services Administration, HIV/AIDS Bureau, 5600 Fishers Lane, Room 7–29, Rockville, Maryland 20857, or e-mail *Lauresa.Washington@hrsa.hhs.gov*.

Dated: September 17, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. E9–23010 Filed 9–23–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

FY 2010 Special Diabetes Program for Indians; Community-Directed Grant Program

Announcement Type: New/Competing Continuation.

Funding Opportunity Number: HHS–2010–IHS–SDPI–0001.

Catalog of Federal Domestic Assistance Number: 93.237.

Key Dates

Application Deadline: October 20, 2009.

Review Date: November 2–4, 2009.

Earliest Anticipated Start Date: November 16, 2009.

Other information: This announcement will be open throughout Fiscal Year (FY) 2010 based on existing budget cycles. Refer to application instructions for additional details. This current announcement targets grantees that currently operate under a budget cycle that begins on October 1.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting grant applications for the FY 2010 Special Diabetes Program for Indians (SDPI) Community-Directed grant program. This competitive grant announcement is open to all existing SDPI grantees that have an active grant in place and are in compliance with the previous terms and conditions of the grant. This program is authorized under HR 6331 ''Medicare Improvement for Patients and Providers Act of 2008'' (Section 303 of Pub. L. 110–275) and the Snyder Act, 25 U.S.C. 13. The program is described in the Catalog of Federal Domestic Assistance (CDFA) under 93.437.

Overview

The SDPI seeks to support diabetes treatment and prevention activities for American Indian/Alaska Native (AI/AN) communities. Grantees will implement programs based on identified diabetes-related community needs. Activities will be targeted to reduce the risk of diabetes in at-risk individuals, provide services that target those with new onset diabetes, provide high quality care to those with diagnosed diabetes, and/or reduce the complications of diabetes.

The purpose of the FY 2010 SDPI Community-Directed grant program is to support diabetes treatment and prevention programs that have a program plan which integrates at least

one IHS Diabetes Best Practice and that have a program evaluation plan in place which includes tracking outcome measures.

This is not an application for continued funding as was previously available for Community-Directed grant programs.

Background

Diabetes Among American Indian/Alaska Native Communities

During the past 50 years, type 2 diabetes has become a major public health issue in many AI/AN communities, and it is increasingly recognized that AI/AN populations have a disproportionate burden of diabetes (Ghodes, 1995). In 2006, 16.1% of AI/ANs aged 20 years or older had diagnosed diabetes (unpublished IHS Diabetes Program Statistics, 2006) compared to 7.8% for the non-Hispanic white population (CDC, 2007). In addition, AI/AN people have higher rates of diabetes-related morbidity and mortality than in the general U.S. population (Carter, 1996; Harris, 1995; Gilliland, 1997). Strategies to address the prevention and treatment of diabetes in AI/AN communities are urgently needed.

Under the Balanced Budget Act of 1997, Congress authorized the IHS to administer the SDPI grant program. SDPI grants are programmatically directed by the IHS Division of Diabetes Treatment and Prevention (DDTP).

Special Diabetes Program for Indians

The SDPI is a $150 million per year grant program. Over 330 programs have received SDPI Community-Directed grants annually since 1998. In addition, 66 demonstration projects have been funded annually since 2004 to address prevention of type 2 diabetes or cardiovascular disease risk reduction. A Congressional re-authorization in 2008 extended the SDPI through FY 2011.

II. Award Information

Type of Awards: Grants.

Estimated Funds Available: The total amount of funding identified for FY 2010 SDPI Community-Directed grant program is $104.8 million. Funds available to each IHS Area and to urban Indian health programs have been determined through Tribal consultation. Within each Area, local Tribal consultation guided IHS decision-making on how much funding is available per eligible applicant. FY 2010 SDPI funding remains unchanged from FY 2009, per Tribal consultation. All awards issued under this announcement are subject to the availability of funds. In the absence of funding, the agency is not under any obligation to make awards funded under this announcement.

Anticipated Number of Awards: Approximately 85–90 awards for Budget Cycle I grantees which limits the announcement to current SDPI FY 2009 grants that end on September 30, 2009.

Project Period: The project period for grants made under this announcement is 24 months, subject to the availability of funds.

III. Eligibility Information

1. Eligible Applicants

Eligible applicants include the following:

- *Federally recognized Tribes operating an Indian health program* operated pursuant to a contract, grant, cooperative agreement, or compact with the IHS pursuant to the Indian Self-Determination Act (ISDA), (Pub. L. 93–638).
- *Tribal organizations operating an Indian health program* operated pursuant to a contract, grant, cooperative agreement, or compact with the IHS pursuant to the ISDA, Public Law 93–638.
- *Urban Indian health programs* that operate a Title V Urban Indian Health Program: This includes programs currently under a grant or contract with the IHS under Title V of the Indian Health Care Improvement Act.
- *Indian Health Service facilities* (refer to paragraph 3 below in this Section).

Current SDPI grantees are eligible to apply for competing continuation funding under this announcement and must demonstrate that they have complied with previous terms and conditions of the SDPI grant in order to receive funding under this announcement.

Non-profit Tribal organizations and national or regional health boards are not eligible, consistent with past Tribal consultation. Applicants that do not meet these eligibility requirements will have their applications returned without further consideration.

Under this announcement, only one SDPI Community-Directed diabetes grant will be awarded per entity. If a Tribe submits an application, their local IHS facility cannot apply; if the Tribe does not submit an application, the IHS facility can apply. Tribes that are awarded grant funds may sub-contract with local IHS facilities to provide specific clinical services. In this case, the Tribe would be the primary SDPI grantee and the Federal entity would have a sub-contract within the Tribe's SDPI grant.

Collaborative Arrangements

Tribes are encouraged to collaborate with any appropriate local entities including IHS facilities. If a Tribe seeks to provide specific clinical or support services, it may implement a sub-contract with these entities in order to transfer funds. The amount of SDPI funding that the Tribe receives remains the same. The Tribe, as the primary grantee, arranges with the entity to provide specified services that support the program's plan. The entity may request direct costs only.

When a Tribe sub-contracts with the local IHS facility, application requirements for collaborative arrangements include:

- A signed Memorandum of Agreement (MOA) must be submitted with the SDPI application. The MOA must include the scope of work assigned to the sub-contracting IHS facility.
- The IHS Area Director and the Tribal Chairperson must give signed approval of the MOA.
- The Tribe's application must include additional SF–424 and 424A forms that are completed by the IHS facility which includes a budget narrative and a face page that is signed by the Chief Executive Officer.

Applications With Sub-Grants

Programs that submit one application on behalf of multiple organizations (sub-grantees) must submit copies of selected application forms and documents for each of their sub-grantees. (*See* Section IV, Subsection 2 for specifics). All sub-grantees must meet the eligibility requirements noted in Subsection 1 above.

2. Cost Sharing or Matching

The FY 2010 Special Diabetes Program for Indians (SDPI) Community-Directed grant program does not require matching funds or cost sharing.

3. Other Requirements

A. Program Coordinator

Provide information about the SDPI Program Coordinator on the ''Key Contacts Form'' which is included in the application package. The Program Coordinator must meet the following requirements:

- Have relevant health care education and/or experience.
- Have experience with program management and grants program management, including skills in program coordination, budgeting, reporting and supervision of staff.
- Have a working knowledge of diabetes.

B. Documentation of Support

Tribal Organizations

Existing SDPI grantees must submit a current, signed and dated Tribal resolution or Tribal letter of support from all Indian Tribe(s) served by the project. Applications from each Tribal organization must include specific resolutions or letters of support from all Tribes affected by the proposed project activities.

If the Tribal resolution or Tribal letter of support is not submitted with the application, it must be received in the Division of Grants Operations (DGO) prior to the objective review date (refer to Key Dates above).

Title V Urban Indian Health Programs

Urban Indian health programs must submit a letter of support from the organization's board of directors. Urban Indian health programs are non-profit organizations and must also submit a copy of the 501(c)(3) Certificate. All letters of support must be included in the application or submitted to DGO prior to the objective review date (refer to Key Dates above.)

IHS Hospitals or Clinics

IHS facilities must submit a letter of support from the Chief Executive Officer (CEO). The documentation must be received in the DGO prior to the objective review date (refer to Key Dates above).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and instructions may be found at *http://www.Grants.gov.*

2. Content and Form of Application Submission

Mandatory documents for all applicants include:

- HHS Application forms:
  - SF–424.
  - SF–424A.
  - SF–424B.
  - Key Contacts Form.
- Budget Narrative.
- Project Narrative.
- Tribal Resolution or Tribal Letter of Support (Tribal Organizations only).
- Letter of Support from Organization's Board of Directors (Title V Urban Indian Health Programs only).
- 501(c)(3) Certificate (Title V Urban Indian Health Programs only).
- CEO Letters of Support (IHS facilities only).
- 2008 and 2009 IHS Diabetes Care and Outcomes Audit Report.
- Biographical sketches for all Key Personnel.
- Disclosure of Lobbying Activities (SF–LLL).

Mandatory Documents for Programs That Proposed Sub-Grantees

The primary grantee for applications that propose sub-grantees must submit all of the mandatory documents listed above. In addition, they must submit the following documents for each sub-grantee:

- SF–424, 424A, 424B and Key Contacts forms.
- Project Narrative.
- Budget Narrative.
- 2008 and 2009 IHS Diabetes Care and Outcomes Audit Reports.

A separate budget is required for each sub-grantee, but the primary grantee's application must reflect the total budget for the entire cost of the project.

Mandatory Documents for Programs That Propose Sub-Contracts With Local IHS Facilities

Programs that propose sub-contracts with IHS facilities to provide clinical services must submit the documents noted below for the sub-contractor:

- MOA that is signed by the primary grantee, the sub-contractor, the IHS Area Director and the Tribal Chairperson.
- SF–424 and 424A forms completed by the IHS facility (in addition to the primary applicant's SF–424 forms).

A separate budget is required for the sub-contract, but the primary grantee's application must reflect the total budget for the entire cost of the project.

Public Policy Requirements: All Federal-wide public policies apply to IHS grants with the exception of the Discrimination Policy.

Requirements for Project and Budget Narratives

A. Project Narrative

This narrative should be a separate Word document that is no longer than 13–17 pages (*see* page limitations for each Part noted below) with consecutively numbered pages. Be sure to place all responses and required information in the correct section or they will not be considered or scored. If the narrative exceeds the page limit, only the first 13–17 pages will be reviewed. There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. A sample project narrative and template are available in the application instructions. *See* below for additional details about what must be included in the narrative.

Part A: Program Information (no more than 4 pages)

Section 1: Community Needs Assessment

A1.1 Describe the burden of diabetes in your community. Include estimates of the number of people diagnosed with diabetes and the total number of people. Describe how you calculated these estimates.

A1.2 Briefly describe the top diabetes-related health issues in your community.

A1.3 Briefly describe the unique challenges your program experiences related to prevention and treatment of diabetes.

Section 2: Leadership Support

A2.1 *Question:* Has at least one organization administrator or Tribal leader agreed to be actively involved in your program's work? (Yes or No).

A2.2 Provide the name and role or position that this leader holds.

A2.3 Describe how this leader will be involved with your program.

Section 3: Personnel

Using the table format that is in the application instructions, provide the following information for each person who will be paid with SDPI funds:

A3.1 Name.

A3.2 Title.

A3.3 Brief description of tasks/activities.

A3.4 Is this person already on staff with your SDPI or diabetes program?

A3.5 What percent FTE of this person's salary will be paid using SDPI funds?

Section 4: Diabetes Audit Review

Obtain copies of your local IHS Diabetes Care and Outcomes Audit Reports for 2008 and 2009. Review and compare the results for these two years. Work with your local audit coordinator or Area Diabetes Consultant (ADC) if you need help.

A4.1 Provide a list of results for three to five items/elements (*e.g.,* A1c, eye exam, education, *etc.*) that improved from 2008 to 2009.

A4.2 Provide a list of three to five items/elements that need to be improved.

A4.3 Describe how your program will address these three to five items/elements that need to be improved or describe how your program will work with your local health care facility to address these areas.

Section 5: Collaboration

A5.1 Describe existing partnerships and collaborations that your program has in place.

A5.2 Describe new partnerships and collaboration that your program is planning to implement.

Part B: Program Planning and Evaluation (no more than 3 pages, with 2 pages for each additional Best Practice)

Section 1: Overview

Each 2009 IHS Diabetes Best Practice includes two specific measures that are called ''key measures.'' Programs may track additional measures based on local priorities. A list of all Best Practices is located in the application instructions. This list provides a short description of the contents and key measures for each Best Practice.

B1.1 List which IHS Diabetes Best Practice(s) your program will implement in order to address the needs that were identified in your community assessment.

Section 2: Program Planning

Provide the information requested below separately for each Best Practice that will be implemented:

B2.1 *Target Population:* What population will you target?

B2.2 *Goal:* Describe the goal that your program wants to achieve as a result of implementing the selected Best Practice.

B2.3 *Objectives/Measures:* List the objective(s) your program will work to accomplish, with at least one measure identified for each objective. Be sure to include the two key measures for your selected Best Practice and use the SMART format (*see* application instructions for additional information). Also, indicate how frequently your program will review data for each measure. (Choose from the following options: weekly, twice a month, monthly, every other month, or quarterly).

B2.4 *Activities:* List the activities that your program will do to meet the selected Best Practice objectives. These could be events you will organize, services you will offer, materials you will develop and implement, or other activities.

Section 3: Evaluation

B3.1 Describe how your program will track activities for the selected Best Practice(s).

B3.2 Describe how your program will collect and track data on all measures (listed in Section 2 above) for the selected Best Practice(s).

B3.3 Describe how your program will collect stories about individual participants, community events, program staff, and other aspects of your program.

Part C: Program Report (no more than 4 pages)

Section 1: Major Accomplishments and Activities

C1.1 Describe three major accomplishments that your SDPI program achieved in the past 12 months.

C1.2 Describe three to five major accomplishments that your SDPI program has achieved since it began.

C1.3 Describe one story that exemplifies a major program accomplishment from the past year.

C1.4 Describe your SDPI program's primary activities during the past 12 months.

C1.5 Describe your SDPI program's primary activities since it began.

Section 2: Challenges

C2.1 Describe the two or three biggest challenges that your SDPI program encountered in the past 12 months.

C2.2 Describe how your SDPI program addressed these challenges.

C2.3 Indicate if you successfully addressed these challenges. (If so, why; if not, why not.)

Section 3: Dissemination

C3.1 Describe three to five major lessons that your SDPI program has learned since it began.

C3.2 Describe how your SDPI program has shared the lessons that you have learned with other diabetes programs.

C3.3 Describe materials or products your SDPI program has developed.

Section 4: Other Information

C4.1 Provide any additional information about your SDPI program.

B. Budget Narrative (no more than 2 pages)

The budget narrative should explain why each budget item on the SF–424A is necessary and relevant to the proposed project.

3. Submission Dates and Times

Applications are to be submitted electronically through Grants.gov by October 20, 2009 at 12:00 midnight Eastern Daylight Time (EDT). Any application received after October 20, 2009 will not be accepted for processing, and it will be returned to the applicant(s) without further consideration for funding.

If technical challenges arise and the applicants need help with the electronic application process, contact Grants.gov Customer Support via e-mail to support@grants.gov or at (800) 518–4726. The Contact Center hours of operation are Monday-Friday from 7 a.m. to 9 p.m. EDT. If problems persist, contact Tammy Bagley, Senior Grants Policy Analyst, IHS Division of Grants Policy (DGP) (tammy.bagley@ihs.gov) at (301) 443–5204 to describe the difficulties being experienced. Be sure to contact Ms. Bagley at least *ten days prior* to the application deadline. *Please do not contact the DGP until you have received a Grants.gov tracking number.* In the event you are not able to obtain a tracking number, call the DGP as soon as possible.

If an applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (*see* page 16 for additional information). The waiver must be documented in writing (e-mails are acceptable), *before* submitting a paper application. After a waiver is received, the application package must be downloaded by the applicant from Grants.gov. Once completed and printed, the original application and two copies must be sent to Denise E. Clark, Division of Grants Operations (DGO) (denise.clark@ihs.gov), 801 Thompson Avenue, TMP, Suite 360, Rockville, MD 20852. Paper applications that are submitted without a waiver will be returned to the applicant without review or further consideration.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

A. Pre-award costs are allowable pending prior approval from the awarding agency. However, in accordance with 45 CFR Parts 74 and 92, pre-award costs are incurred at the applicant's risk. The awarding office is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award is less than anticipated.

B. The available funds are inclusive of direct and appropriate indirect costs (*see* Section VI, Subsection 3).

C. Only one grant will be awarded per applicant.

6. Electronic Submission Requirements

Use the *http://www,Grants.gov* Web site to submit an application electronically; select the ''Apply for Grants'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the application via the Grants.gov Web site. Electronic copies of the application may not be submitted as attachments to e-mail messages addressed to IHS employees or offices.

Applicants that receive a waiver to submit paper application documents must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the application deadline.

Applicants that do not adhere to the timelines for Central Contractor Registry (CCR) and/or Grants.gov registration and/or request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Paper applications are not the preferred method for submitting applications.
- If you have problems electronically submitting your application on-line, contact Grants.gov Customer Support via e-mail to support@grants.gov or at (800) 518–4726. The Contact Center hours of operation are Monday-Friday from 7 a.m. to 9 p.m. EDT. If problems persist, contact Tammy Bagley, Senior Grants Policy Analyst, DGP, at (301) 443–5204.
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver to submit a paper application must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (e-mails are acceptable) to *michelle.bulls@ihs.gov* that includes a justification for the need to deviate from the standard electronic submission process. If the waiver is approved, the application package must be downloaded by the applicant from Grants.gov. Once completed and printed, it should be sent directly to the DGO by the deadline date (*see* Section IV, Subsection 3 for details).
- Upon entering the Grants.gov site, there is information that outlines the requirements to the applicant regarding electronic submission of an application through Grants.gov, as well as the hours of operation.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for CCR and Grants.gov could take up to fifteen working days.
- In order to use Grants.gov, the applicant must have a Dun and Bradstreet (DUNS) Number and register in the Central Contractor Registration (CCR). A minimum of ten working days should be allowed to complete CCR registration. *See* Subsection 8 below for more information.
- All documents must be submitted electronically, including all information typically included on the SF–424 and all necessary assurances and certifications.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by IHS.
- The application must comply with any page limitation requirements described in the Funding Announcement.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGO will download your application from Grants.gov and provide necessary copies to the DDTP. Neither the DGO nor the DDTP will notify applicants that the application has been received.
- You may access the electronic application package and instructions for this Funding Opportunity Announcement on *http://www.Grants.gov*.
- You may search for the application package on Grants.gov either with the CFDA number or the Funding Opportunity Number. Both numbers are identified in the heading of this announcement.
- The applicant must provide the Funding Opportunity Number: HHS–2010–IHS–SDPI–0001.

DUNS Number

Applicants are required to have a DUNS number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Many organizations may already have a DUNS number. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number or to find out if your organization already has a DUNS number, access *http://fedgov.dnb.com/webform*.

Applicants must also be registered with the CCR. A DUNS number is required before an applicant can complete their CCR registration. Registration with the CCR is free of charge. Applicants may register online at *http://www.ccr.gov*. More detailed information regarding the DUNS, CCR, and Grants.gov processes can be found at: *http://www.Grants.gov*.

V. Application Review Information

1. Criteria

Criteria that will be used to evaluate the application are divided into three categories. They include:

- *Project Narrative:* The project narrative is divided into three parts: Part A—Program Information; Part B—Program Planning/Evaluation; and Part C—Project Report. Required information includes topics such as: community needs assessment, leadership support, use of Diabetes Audit results, selected Best Practice(s), overall evaluation plan and project accomplishments. For each Best Practice that will be implemented, address: target population, goal, objectives/measures, review of key measures, and activities (*see* Section IV, Part B, Section 2, Page 11).
- *Budget Narrative:* The budget narrative provides additional explanation to support the information provided on the SF–424A form. Budget categories to address include: personnel, fringe benefits, travel, equipment and supplies, contractual/consultant and constructions/alterations/renovations. In addition to a line item budget, provide a brief justification of each budget item and how they support project objectives.
- *Key Contacts Form:* This form seeks to obtain contact information about the project's SDPI Program Coordinator.

Scoring of Applications

Points will be assigned in each category adding up to a total of 100. A minimum score of 60 points is required for funding. Points will be assigned as follows:

- *Project Narrative:* A total of 90 possible points are available for this information. It is divided into two parts: Program Information (20 possible points); Program Planning/Evaluation (60 possible points); and Program Report (10 possible points).
- *Budget Narrative:* A total of 10 possible points are available for this information.

2. Review and Selection Process

Each application will be prescreened by DGO staff for eligibility and completeness as outlined in this Funding Opportunity Announcement. Applications from entities that do not meet eligibility criteria or that are incomplete will not be reviewed. Applicants will be notified by the DGO that their application did not meet minimum requirements.

After being prescreened by the DGO, applications will be reviewed by an Objective Review Committee (ORC) and assigned a score. The ORC is an objective review group that will be convened by the DDTP in consultation with the DGP as required by Department of Health and Human Services (HHS) Grants Policy.

To obtain a minimum score for funding, applicants must address all program requirements and provide all required documentation. Applicants that receive less than a minimum score will be informed via e-mail of their application's deficiencies. (*see* Section 6 below for application revision guidance). A summary statement outlining the weaknesses of the application will be provided to these applicants. The summary statement will be sent to the Authorized Organizational Representative (AOR) that is identified on the face page of the application.

Review of Applications With Sub-Grants

When an application is submitted on behalf of multiple organizations (sub-grantees), the review score will be a combined score that is based on information provided by all of these organizations.

Programmatic Requirements

Funded applicants (grantees) must meet the following programmatic requirements:

A. Implement an IHS Diabetes Best Practice

Grantees must implement recommended services and activities from at least one 2009 IHS Diabetes Best Practice. They should implement recommendations based on program need, strengths, and resources. Program activities, services and key measures from the selected Best Practice(s) must be documented in the project narrative (*see* Section IV, Part B, Section 2, Page 11).

B. Implement Program and Evaluation Plans

Grantees must follow the plans submitted with their application when implementing each selected Best Practice and their evaluation processes. A minimum evaluation requirement is to monitor the key measures over time. Programs may track additional measures based on local priorities.

C. Participate in Training and Peer-to-Peer Learning Sessions.

Grantees must participate in SDPI training sessions and peer-to-peer learning activities. Training sessions will be primarily conference calls or combined WebEx/conference calls. Grantees will be expected to:

- Participate in interactive discussion during conference calls.
- Share activities, tools and results.
- Share problems encountered and how barriers are broken down.
- Share materials presented at conferences and meetings.
- Participate and share in other relevant activities.

Sessions, which will be led by DDTP, DGO, or their agents, will address clinical and other topics. Topics will include: program planning and evaluation, enhancing accountability through data management, and improvement principles and processes. Grantees will integrate information and ideas in order to enhance effectiveness. Anticipated outcomes from participating in the learning sessions are improved communication and sharing among grantees, increased use of data for improvement, and enhanced accountability.

Application Revisions

If an application does not receive a minimum score for funding from the ORC, the applicant will be informed via a summary statement that will be sent to the AOR via e-mail. The applicant then has two opportunities to submit revisions to their application. Before application revisions can be submitted, the AOR must have received a summary statement from the previous review that outlines the weaknesses of the initial application.

A. Revision to Initial Application

Applicants will have five business days from the date that the summary statement is sent via e-mail to submit hard copies of their application revisions. Along with the revised application documents, applicants must prepare and submit an Introduction of not more than three pages that summarizes the substantial additions, deletions, and changes. The Introduction must also include responses to the criticism and issues raised in the summary statement.

The Introduction and revised application documents must be mailed directly to the DGO to the attention of Denise Clark, Lead Grants Management Specialist (*denise.clark@ihs.gov*) at: Division of Grants Operations, 801 Thompson Avenue, TMP, Suite 360, Rockville, MD 20852.

Technical assistance will be available to applicants as they prepare resubmission documentation.

An Ad Hoc Review Committee will be convened specifically to review the initial application revisions. If the revised application receives the minimum score for funding or above, the applicant will be informed via a Notice of Award (NoA). If the Review Committee determines that the application with revisions still does not receive a fundable score, the applicant will be informed of their application's deficiencies via a second summary statement that will be e-mailed to the AOR.

B. Second Application Revision

Applicants will have five business days from the date that the second summary statement is sent via e-mail to submit hard copies of their application revisions. Along with the revised application documents, applicants must prepare and submit an Introduction of not more than three pages that summarizes the substantial additions, deletions, and changes. The Introduction must also include responses to the criticism and issues raised in the summary statement.

The Introduction and revised application documents must, again, be mailed directly to the DGO to the attention of Denise Clark, Lead Grants Management Specialist (*denise.clark@ihs.gov*) at: Division of Grants Operations, 801 Thompson Avenue, TMP, Suite 360, Rockville, MD 20852.

A second Ad Hoc Review Committee will be convened to review the second application revisions. If the application with revisions receives the minimum score for funding or above, the applicant will be informed via a Notice of Award (NoA).

If the Review Committee determines that the application with revisions still does not receive a fundable score, applicants will be informed in writing of their application's deficiencies. No further resubmissions will be allowed.

7. Anticipated Announcement and Award Dates

Grantees that receive a fundable score will be notified of their approval for funding via the NoA. (*See* application instructions for key dates for other budget cycles.)

VI. Award Administration Information

1. Award Notices

The NoA will be prepared by DGO and sent via postal mail to each applicant that is approved for funding under this announcement. This document will be sent to the person who is listed on the SF–424 as the AOR. The NoA will be signed by the Grants Management Officer. The NoA is the authorizing document for which funds are dispersed to the approved entities. The NoA serves as the official notification of the grant award and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period. The NoA is the legally binding document. Applicants who are disapproved based on the ORC score will receive a copy of the summary statement which identifies the weaknesses and strengths of the application submitted. The AOR serves as the business point of contact for all business aspects of the award.

The anticipated NoA date for all applicants that score well in the ORC review for Cycle I is November 9, 2009.

2. Administrative Requirements

Grants are administered in accordance with the following regulations, policies, and Office of Management and Budget (OMB) cost principles:

A. The Criteria as Outlined in This Funding Opportunity Announcement

B. Administrative Regulations for Grants

- 45 CFR Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR Part 74—Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations, and Commercial Organizations.

C. Grants Policy

- HHS Grants Policy Statement, Revised 01/2007.

D. Cost Principles

- OMB Circular A–87—State, Local, and Indian Tribal Governments (Title 2 Part 225).
- OMB Circular A–122—Non-Profit Organizations (Title 2 Part 230).

E. Audit Requirements

- OMB Circular A–133—Audits of States, Local Governments, and Non-Profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current indirect cost rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGO at the time of award, the indirect cost portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGO.

Generally, indirect costs rates for IHS grantees are negotiated with the HHS Division of Cost Allocation *http://rates.psc.gov/* and the Department of the Interior (National Business Center) at *http://www.aqd.nbc.gov/indirect/indirect.asp.* If your organization has questions regarding the indirect cost policy, please contact the DGO at (301) 443–5204.

4. Reporting Requirements

The DDTP and the DGO have requirements for progress reports and financial reports based on the terms and conditions of this grant as noted below.

A. Progress Reports

Program progress reports are required semi-annually. These reports must include at a minimum: reporting of Best Practice measures; and a brief comparison of actual accomplishments to the goals established for the budget period or provide sound justification for the lack of progress.

B. Financial Status Reports

Annual financial status reports are required until the end of the project period. Reports must be submitted within 30 days of due dates. The final financial status report is due within 90 days after the end of the 24 month project period. Standard Form 269 (long form for those reporting program income; short form for all others) will be used for financial reporting.

Grantees are responsible and accountable for accurate reporting of the Progress Reports and Financial Status Reports (FSR). According to SF–269 instructions, the final SF–269 must be verified from the grantee records to support the information outlined in the FSR.

Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

C. FY 2007 and FY 2008 Single Audit Reports

Applicants who have an active SDPI grant are required to be up-to-date in the submission of required reports. Documentation of (or proof of submission) of current FY 2008 and FY 2007 Audit Reports is mandatory.

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

- For Grants Budget Management, contact:
  - Denise Clark, Lead Grants Management Specialist, DGO *(denise.clark@ihs.gov),* Division of Grants Operations, 801 Thompson Avenue, TMP, Suite 360, Rockville, MD 20852. (301) 443–5204.
- For Grants.gov electronic application process, contact:
  - Tammy Bagley, Grants Policy, DGP *(tammy.bagley@ihs.gov).* (301) 443–5204. *Grants Policy Web site: http://www.ihs.gov/NonMedicalPrograms/gogp/index.cfm?module=gogp_funding.*
- For programmatic questions, contact:
  - Merle Mike, Program Assistant, DDTP *(merle.mike@ihs.gov).* (505) 248–4182.
  - Lorraine Valdez, Deputy Director, DDTP *(s.lorraine.valdez@ihs.gov).* (505) 248–4182.
  - *Area Diabetes Consultants Web site: http://www.ihs.gov/MedicalPrograms/diabetes/index.cfm?module=peopleADCDirectory*.

Dated: September 18, 2009.

Yvette Roubideaux,

Director, Indian Health Service.

[FR Doc. E9–23099 Filed 9–23–09; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Center for AIDS Research (CFAR) Meeting.

Date: October 14–16, 2009.

Agenda: 8 a.m. to 5 p.m.

Place: To review and evaluate grant applications.

Place: Crowne Plaza Hotel-Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Jay Bruce Sundstrom, PhD, Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700B Rockledge Drvie, MSC–7616, Room 3119, Bethesda, MD 20892–7616, 301–496–2550, *sundstromj@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special

Emphasis Panel; HIV Vaccine Research and Design (HIVRAD) Program.

Date: October 14–15, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Roberta Binder, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, Room 3130, Bethesda, MD 20892–7616, 301–496–7966, *rbinder@niaid.nih.gov*.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. Immune Regulation.

Date: October 22, 2009.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Wendy F. Davidson, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIH/NIAID/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–8399, *davidsonw@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23119 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel Aging Bone.

Date: October 20, 2009.

Time: 12 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alicja L. Markowska, PhD, DSC, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel Auditory Aging.

Date: October 27, 2009.

Time: 10:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, 2C212, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alicja L Markowska, PhD, DSC, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23128 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Mental Health.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Mental Health, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Mental Health.

Date: October 5–7, 2009.

Time: October 5, 2009, 7 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Time: October 6, 2009, 8:30 a.m. to 12:10 p.m.

Agenda: To review and evaluate the Intramural Laboratories with site visits of the Affective Psychophysiology Laboratory, the Section on Neurobiology, the Section on Neuroendocrine Immunology and Behavior, and meetings with PIs, and Training Fellows.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Time: October 6, 2009, 12:30 p.m. to 4 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Time: October 6, 2009, 7 p.m. to 10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Time: October 7, 2009, 8:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate the Intramural Laboratories with site visits of the Unit on Synapse Development and Plasticity, the Unit on Neuronal Circuits and Adaptive Behaviors, and meetings with Training Fellows.

Place: National Institutes of Health. Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Time: October 7, 2009, 11:50 a.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Dawn M. Johnson, PhD, Executive Secretary, Division of Intramural Research Programs, National Institute of Mental Health, 10 Center Drive, Building 10, Room 4N222, Bethesda, MD 20892, 301–402–5234, *dawnjohnson@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: September 17, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23126 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the NIH Scientific Review Board, September 24, 2009, 8 a.m. to 3 p.m., National Institutes of Health, Building 60, Chapel and Lecture Hall, 9000 Rockville Pike, Bethesda, MD 20892 which was published in the **Federal Register** on September 14, 2009, 74 FR 46998.

The notice is being amended to cancel the September 24, 2009, Deliberating Organizational Changes and Effectiveness Working Group forum. Please see the Scientific Management Review Board Web site for the schedule of upcoming meetings at: *http://smrb.od.nih.qov.* For further information contact Dr. Lyric Jorgenson, Office of Science Policy, Office of the Director, National Institutes of Health, Building 1, Room 218, MSC 0166, 9000 Rockville Pike, Bethesda, MD 20892.

Dated: September 16, 2009.

Amy Patterson,

Director, Office of Biotechnology Activities.

[FR Doc. E9–23032 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular Aspects of Diabetes and Obesity Study Section.

Date: October 5–6, 2009.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Ann A. Jerkins, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892, 301–435–4514, *jerkinsa@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 16, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23031 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Interventions for Substance Abuse.

Date: September 23, 2009.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 16, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23028 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0664]

Risk Communication Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Risk Communication Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 12, 2009, from 8 a.m. to 5 p.m. and November 13, 2009, from 8 a.m. to 2 p.m.

Location: The Hilton Hotel, 8727 Colesville Rd., Silver Spring, MD 20910.

Contact Person: Lee L. Zwanziger, Office of the Commissioner, Office of Policy, Planning and Preparedness, Office of Planning, Food and Drug Administration, 5600 Fishers Lane, rm. 14–90, Rockville, MD 20857, 301–827–2895, FAX: 301–827–4050, e-mail: *RCAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 8732112560. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the

appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On November 12 and 13, 2009, the Committee will discuss strategies and programs designed to communicate with the public about the risks and benefits of FDA-regulated products so as to facilitate optimal use of these products. For more specific agenda topics, please visit the following Web site and scroll down to the appropriate advisory committee link (*http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*), or call the FDA Advisory Committee Information Line as detailed under ''*Contact Person*''. FDA intends to provide specific agenda topics at both these locations no later than 15 days before the meeting.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 4, 2009. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on November 12, 2009, and between approximately 10:30 a.m. and 11:30 a.m. on November 13, 2009. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before November 4, 2009. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by November 5, 2009.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Lee Zwanziger at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 18, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23001 Filed 9–23–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. ''NIAID Science Education Awards.''

Date: October 5, 2009.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Jay Bruce Sundstrom, PhD, Scientific Review Official, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 2217, 6700B Rockledge Drvie, MSC–7616, Bethesda, MD 20892–7616, (301) 496–2550, *sundstromj@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 18, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–23121 Filed 9–23–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0444]

Schmid Laboratories, Inc. et al.; Proposal To Withdraw Approval of Five New Drug Applications; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity to request a hearing on the agency's proposal to withdraw approval of five new drug applications (NDAs) from multiple sponsors. The basis for the proposal is that the sponsors have repeatedly failed to file required annual reports for these applications.

DATES: Submit written requests for a hearing by October 26, 2009; submit data and information in support of the hearing request by November 23, 2009.

ADDRESSES: Requests for a hearing, supporting data, and other comments are to be identified with Docket No. FDA–2009–N–0444 and submitted to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Florine P. Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6366, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: The holders of approved applications to market new drugs for human use are required to submit annual reports to FDA concerning each of their approved applications in accordance with § 314.81 (21 CFR 314.81). The holders of the approved applications listed in table 1 of this document have failed to submit the required annual reports and have not responded to the agency's request by certified mail for submission of the reports.

TABLE 1

Application No.	Drug	Applicant
NDA 5–766	Ramses Vaginal Jelly	Schmid Laboratories, Inc., Route 46 West, Little Falls, NJ 07424
NDA 7–220	Synthetic Vitamin A (vitamin A palmitate)	Merck & Co., Inc., 770 Sumneytown Pike, P.O. Box 4, West Point, PA 19486
NDA 8–595	Immolin Vaginal Cream Jel	Schmid Laboratories, Inc.
NDA 8–612	Silicote (simethicone) Ointment	Arnar-Stone Laboratories, Inc., 601 East Kensington Rd., Mount Prospect, IL 60056
NDA 10–915	Q.E.D. Hairgroom (captan)	A.R. Winarick, Inc., 783 Palisade Ave., Cliffside, NJ 07010

Therefore, notice is given to the holders of the approved applications listed in table 1 of this document and to all other interested persons that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(e)) withdrawing approval of the applications and all amendments and supplements thereto on the ground that the applicants have failed to submit reports required under § 314.81.

In accordance with section 505 of the act and part 314 (21 CFR part 314), the applicants are hereby provided an opportunity for a hearing to show why the applications listed previously should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products covered by these applications.

An applicant who decides to seek a hearing shall file the following: (1) A written notice of participation and request for a hearing (see **DATES**), and (2) the data, information, and analyses relied on to demonstrate that there is a genuine and substantial issue of fact that requires a hearing (see **DATES**). Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, notice of participation and request for a hearing, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in § 314.200 and in 21 CFR part 12.

The failure of an applicant to file a timely written notice of participation and request for a hearing, as required by § 314.200, constitutes an election by that applicant not to avail itself of the opportunity for a hearing concerning the proposal to withdraw approval of the applications and constitutes a waiver of any contentions concerning the legal status of the drug products. FDA will then withdraw approval of the applications and the drug products may not thereafter lawfully be marketed, and FDA will begin appropriate regulatory action to remove the products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accordance with § 314.81. If the submission is not complete or if a request for a hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions under this notice of opportunity for a hearing must be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, or on the Internet at *http://www.regulations.gov*.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505 (21 U.S.C. 355)) and under authority delegated to the Director, Center for Drug Evaluation and Research, by the Commissioner of Food and Drugs.

Dated: September 9, 2009.

Douglas C. Throckmorton,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. E9–23005 Filed 9–23–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0383]

Request for Notification From Industry Organizations Interested in Participating in the Selection Process for a Nonvoting Industry Representative on the Tobacco Products Scientific Advisory Committee and Request for Nominations for Nonvoting Industry Representatives on the Tobacco Products Scientific Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing an amendment to the notice of the Request for Notification From Industry Organizations Interested in Participating in the Selection Process for a Nonvoting Industry Representative on the Tobacco Products Scientific Advisory Committee and Request for Nominations for Nonvoting Industry Representatives on the Tobacco Products Scientific Advisory Committee. This meeting was announced in the **Federal Register** of August 26, 2009 (74 FR 43140). The amendment is being made to reflect changes in the **DATES**, **ADDRESSES**, and **Selection Procedure** portions of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hays, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Blvd., Rockville, MD 20850–3229, 301–796–3369, FAX: 301–595–7946, e-mail: *Teresa.Hays@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 26, 2009, FDA announced a Request for Notification From Industry Organizations Interested in Participating

in the Selection Process for a Nonvoting Industry Representative on the Tobacco Products Scientific Advisory Committee and Request for Nominations for a Nonvoting Industry Representatives on the Tobacco Products Scientific Advisory Committee of the Tobacco Products Scientific Advisory Committee.

On page 43140, in the third column, the **DATES** portion of the document is changed to read as follows:

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests must send a letter stating the interest to FDA by October 26, 2009, for vacancies listed in the notice. Concurrently, nomination material for prospective candidates should be sent to the FDA by October 26, 2009.

On page 43140, in the first column, the **ADDRESSES** portion of the document is changed to read as follows:

ADDRESSES: All nominations for membership should be sent to Teresa L. Hays, Food and Drug Administration, Center for Tobacco Products, 9200 Corporate Blvd., Rockville, MD 20850–3229, 301–796–3699, FAX: 301–595–7946, e-mail: *Teresa.Hays@fda.hhs.gov*.

On page 43141, beginning in the first column, the text in the **II. Selection Procedure** portion of the document is changed to read as follows:

Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **ADDRESSES**) within 30 days of publication of this document. Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for the Tobacco Products Scientific Advisory Committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner of Food and Drugs will select the nonvoting member to represent industry interests.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: September 18, 2009.

David Horowitz,

Assistant Commissioner for Policy.

[FR Doc. E9–23009 Filed 9–23–09; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

National Protection and Programs Directorate; Infrastructure Protection Data Call Survey

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: 60-Day Notice and request for comments; New Information Collection Request: 1670—NEW.

SUMMARY: The Department of Homeland Security, National Protection and Programs Directorate, has submitted the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

DATES: Comments are encouraged and will be accepted until November 23, 2009. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and questions about this Information Collection Request should be forwarded to NPPD/IP/IICD, Attn.: Mary Matheny-Rushdan, *mary.matheny-rushdan@dhs.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Homeland Security (DHS) is the lead coordinator in the national effort to identify and prioritize the country's critical infrastructure and key resources (CIKR). At DHS, this responsibility is managed by the Office of Infrastructure Protection (IP) in the National Protection and Programs Directorate (NPPD). In FY2006, IP engaged in the annual development of a list of CIKR assets and systems to improve IP's CIKR prioritization efforts; this list is called the Critical Infrastructure List. The Critical Infrastructure List includes assets and systems that, if destroyed, damaged or otherwise compromised, could result in significant consequences on a regional or national scale.

The IP Data Call is administered out of the Infrastructure Information Collection Division (IICD) in the Office of Infrastructure Protection (IP). The IP Data Call provides opportunities for States and territories to collaborate with DHS and its Federal partners in CIKR protection. DHS, State and territorial Homeland Security Advisors (HSA), Sector Specific Agencies (SSA), and territories build their CIKR data using the IP Data Call application. To ensure that HSAs, SSAs and territories are able to achieve this mission, IP requests opinions and information in a survey from IP Data Call participants regarding the IP Data Call process and the Web-based application used to collect the CIKR data. The survey data collected is for internal IICD and IP use only.

IICD and IP will use the results of the IP Data Call Survey to determine levels of customer satisfaction with the IP Data Call process and the IP Data Call application and prioritize future improvements. The results will also allow IP to appropriate funds cost-effectively based on user need, and improve the process and application.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, National Protection and Programs Directorate.

Title: IP Data Call Survey.

Form: Not Applicable.

OMB Number: 1670—NEW.

Affected Public: State, Local, or Tribal Government.

Number of Respondents: 138.

Estimated Time per Respondent: 2 hours.

Total Burden Hours: 276.

Total Burden Cost (operating/maintaining): $25,513.

Thomas Chase Garwood III,

Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.

[FR Doc. E9–23013 Filed 9–23–09; 8:45 am]

BILLING CODE 9910–9P–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2008–0088]

Privacy Act of 1974; Federal Emergency Management Agency-008 Disaster Recovery Assistance Files System of Records

AGENCY: Privacy Office; DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a system of records titled, Department of Homeland Security Federal Emergency Management Agency-REG 2 Disaster Recovery Assistance Files [July 6, 2006], into a Department of Homeland Security system of records notice titled, DHS/Federal Emergency Management Agency-008 Disaster Recovery Assistance Files. This system enables the Department of Homeland Security to administer the DHS/Federal Emergency Management Agency Disaster Recovery Assistance system of records. To assist in improving disaster recovery assistance, the Federal Emergency Management Agency, in partnership with other Federal agencies, hosts a single application and resource center (*http://www.disasterassistance.gov*) that allows the public to apply for disaster assistance, benefits, and other services within the Federal Emergency Management Agency and other Federal agencies.

Updated information contained in the Disaster Recovery Assistance Files, includes, but is not limited to, the disaster applicant's change of address associated with the applicant's social security number that will be submitted to the Social Security Administration.

Sharing the date of a disaster applicant's change of address along with the social security number will allow applicants to update the Social Security Administration with information to help prevent delay in receiving benefits and correspondence from the Social Security Administration.

Categories of individuals, categories of records, and the routine uses of this system of records notice have been updated to better reflect the Department of Homeland Security Federal Emergency Management Agency's Disaster Recovery Assistance record systems. This system will be included in the Department's inventory of record systems. The changes include re-numbering the routine uses to comport with all of DHS system of record notices.

We have expanded the preamble language in section (h), which was previously numbered section (a), to include sharing for the purposes of addressing unmet needs as well as preventing a duplication of benefits. We expanded the language in (h)(1) (previously (a)(1)) to include all types of disaster related assistance that a Federal or State agency may provide. There was some ambiguity as to whether some services that states provided met the standard set out in the previous system of records notice. We have added an additional routine use in section (h) to address immediate health needs of applicants.

We have added routine use section (q) to better assist applicants by updating all of their information that is filed with government agencies. FEMA learned that in the aftermath of a disaster, applicants who were housed in FEMA-provided dwellings had trouble receiving other services and benefits from other government agencies due to the fact that those other agencies did not have updated contact information regarding the applicants. This routine use will address that problem.

In response to Executive Order 13411 we have added routine use (r) to allow for computer matching agreements with other agencies in order to better deal with eligibility concerns. Often eligibility for other Federal agency programs is contingent upon whether the applicant received assistance from DHS/FEMA and vice versa. The sharing via computer matching agreements will expedite and improve upon this process.

DATES: Written comments must be submitted on or before October 26, 2009. This new system will be effective October 26, 2009.

ADDRESSES: You may submit comments, identified by Docket Number DHS–2008–0088 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change and may be read at *http://www.regulations.gov*, including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Delia Davis (202–646–3808), Privacy Officer, Federal Emergency Management Agency, Department of Homeland Security, Washington, DC 20472. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107–296, Section 1512, 116 Stat. 2310 (November 25, 2002) and in accordance with the Privacy Act of 1974, the Department of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA) is updating and reissuing this system of records for the collection and maintenance of records pertaining to the Federal Emergency Management Agency Disaster Recovery Assistance Files.

In compliance with Executive Order 13411, ''Improving Assistance for Disaster Victims,'' dated August 29, 2006, FEMA has developed and improved several programs to improve assistance provided to victims of Presidentially-declared disasters.

The Department of Homeland Security is updating the DHS/FEMA–REG 2 Disaster Recovery Assistance Files [July 6, 2006, 71 FR 38408], and reissuing it under a new name, DHS/FEMA-008 Disaster Recovery Assistance Files. This system will enable DHS to administer the Federal Emergency Management Agency Disaster Recovery Assistance system of records. To assist in improving disaster recovery assistance, FEMA, in partnership with other Federal agencies, hosts a single application and resource center (*http://www.disasterassistance.gov*) that allows the public to apply for disaster assistance, benefits, and other services within FEMA and other Federal agencies.

Additional routine uses have been added in order to improve efficiency of administering disaster relief efforts and benefits. FEMA has added routine use (q) to better assist applicants in updating all of their information that is filed with government agencies. FEMA learned that in the aftermath of a disaster, applicants who were housed in FEMA-provided dwellings had trouble receiving other services and benefits from other government agencies due to the fact that those other agencies did not have updated contact information regarding the applicants. Initially, the following agencies will be using Disaster Assistance Center: Social Security Administration (SSA), Small Business Administration (SBA), Department of Education (ED), and Department of Labor (DOL). In subsequent phases, the following agencies may be using Disaster Assistance Center: Department of Housing and Urban Development (HUD), Department of Agriculture (USDA), Department of Health & Human Services (HHS), Department of Justice (USDOJ), Department of the Interior (DOI), Department of Treasury (Treasury), Department of Veterans' Affairs (VA), and Office of Personnel Management (OPM). For example, sharing the date of a disaster applicant's change of address together with their social security number will allow applicants to update Social Security Administration with information to help prevent delay in receiving benefits and correspondence from the Social Security Administration.

FEMA has added routine use (r) pursuant to the aforementioned Executive Order 13411. This allows for computer matching agreements with other agencies in order to better deal with eligibility concerns. Eligibility for other Federal agency programs is contingent on whether the applicant received assistance from DHS/FEMA and vice versa. The sharing via computer matching agreements will expedite and improve upon this process.

Specifically, routine use section (h) (previously section a.) more clearly describes which entities may receive applicant information for the purposes of preventing duplication of benefits and addressing unmet needs caused by the disaster. This section also adds an additional routine use to entities that are able to assist applicants who require immediate health related needs. FEMA has added routine use (e) to comport with all DHS system of records notices. Pursuant to the aforementioned Executive Order 13411, FEMA has added routine uses (q) and (r). All disclosures made pursuant to the routine uses described below (unless stated otherwise) require a written request from the entity seeking the information prior to disclosure. All requests for applicant information first require legal review and concurrence before disclosing applicant information under this system.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act Regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such files within the agency. Below is the description of the DHS/FEMA Disaster Recovery Assistance Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this revised system of records to the Office of Management and Budget (OMB) and to Congress.

SYSTEM OF RECORDS:

DHS/FEMA–008.

SYSTEM NAME:

Federal Emergency Management Agency Disaster Recovery Assistance Files.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Processing Service Centers (NPSC) located at FEMA MD–NPSC, 6511 America Boulevard, Hyattsville, MD 20782; FEMA VA–NPSC, 430 Market St. Winchester, VA 22603; and FEMA TX–NPSC, 3900 Karina Lane, Denton, TX 76208.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Eligible United States citizens and lawful permanent residents applying for disaster recovery assistance following a Presidentially-declared major disaster or emergency.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

(a) Registration Records (Form 90–69 and 90–69b, Disaster Assistance Registration/Application)

- Individual's full name;
- Social security number, alien number, co-application social security number;
- Date of birth;
- Phone numbers;
- E-mail addresses;
- Addresses;
- Language(s) spoken;
- Date of disaster and/or property loss including cause of damage and estimates of repair;
- Type of disaster location;
- Name for each disaster;
- Income information;
- Acceptable forms of identification (*e.g.*, drivers license, state/federal issued photo identification);
- Emergency needs of the individual (*e.g.* food, clothing, shelter *etc.*);
- Other needs (*e.g.*, medical, dental, moving, funeral *etc.*)
- Type of residence;
- Insurance coverage information including names, addresses, phone numbers, e-mail addresses;
- Household size and composition including number and type of individual's dependents;
- Bank name and account information including electronic funds transfer information;

(b) Inspection Reports (Form 90–56, Inspection Report)

- Inspection reports containing individuals' identifying information and results of surveys of damaged real and personal property and goods, which may include individuals' homes and personal items;

(c) Temporary Housing Assistance Eligibility Determinations (Forms 90–11, through 90–13, 90–16, 90–22, 90–24 through 90–28, 90–31, 90–33, 90–41, 90–48, 90–57, 90–68 through 90–70, 90–71, 90–75 through 90–78, 90–82, 90–86,

90–87, 90–94 through 90–97, 90–99, and 90–101.

• Correspondence and documentation related to the approval and disapproval of temporary housing assistance including: general correspondence, complaints, appeals and resolutions, requests for disbursement of payments, inquiries from tenants and landlords, general administrative and fiscal information, payment schedules and forms, termination notices, information shared with the temporary housing program staff from other agencies to prevent the duplication of benefits, leases, contracts, specifications for repair of disaster damaged residences, reasons for eviction or denial of aid, sales information after tenant purchase of housing units, and the status of disposition of applications for housing;

(d) Eligibility Decisions for Disaster Aid from other Federal and State Agencies (forms 76–27 through 70–28, 76–30, 76–32, 76–34 through 76–35 and 76–38)

• Notations of decisions for disaster aid from other Federal and State agencies as they relate to determinations of individuals' eligibility for disaster assistance programs.

• Other files independently kept by the State, which contain records of persons who request disaster aid, specifically for the ''Other Needs'' assistance provision of the Individuals and Households Program (IHP), and its predecessor program, the Individuals and Family Grant (IFG), administrative files and reports required by FEMA. As to individuals, the State keeps the same type of information as described above under registration, inspection, and temporary housing assistance records. As to administrative files and reporting requirements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Robert T. Stafford Disaster Relief and Emergency Assistance Act as amended (the Stafford Act), 42 U.S.C. 5121–5206 and Reorganization Plan No. 3 of 1978, 5 U.S.C. 552a(b) of the Privacy Act, Executive Order 13411, the Homeland Security Act of 2002, Public Law 107–296, Section 1512, 116 Stat. 2310 (November 25, 2002), 5 U.S.C. 552a(b) of the Privacy Act, 44 U.S.C. sections 2904 and 2906, Debt Collection Improvement Act of 1996, 31 U.S.C. 3325(d) and 7701(c)(1), Fair Credit Reporting Act, 15 U.S.C. 1681a(f), as amended; Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3), as amended; 44 CFR 206.2(a)(27).

PURPOSE(S):

To register applicants needing disaster assistance, to inspect damaged homes, to verify information provided by each applicant, to determine eligibility regarding an applicant's request for assistance, and to identify and implement measures to reduce future disaster damage, prevent duplication of federal government efforts and benefits, identify possible fraudulent activity once there has been a Presidentially-declared major disaster or emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, DHS/FEMA may disclose all or a portion of the records of information contained in this system as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ) (including United States Attorney Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request and with the consent of the individual to whom the record pertains.

C. To the National Archives and Records Administration or other Federal Government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. sections 2904 and 2906.

D. To a Federal agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual who relies upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. Where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory—the relevant records may be referred to an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting such a violation or enforcing or implementing a law, rule, regulation, or order, so long as such disclosure is proper and consistent with the official duties of the person receiving the information.

H. To certain agencies where FEMA may disclose applicant information necessary to prevent a duplication of efforts or a duplication of benefits in determining eligibility for disaster assistance, or to certain entities that will provide unmet needs to eligible, ineligible or partially eligible FEMA applicants. Only the least amount of necessary information shall be released to enable the recipient agency to determine eligibility for that agency's particular assistance program(s). The receiving agency is not permitted to alter or to further disclose the disclosed records to other disaster organizations. FEMA may make such disclosures under the following circumstances:

1. To another Federal agency or State government agency charged by statute or regulation in administering disaster relief programs. This includes programs

that make available any additional Federal and State disaster assistance to individuals and households and authorities that give preference of priority to disaster victims to the extent the information is relevant and necessary and is compatible as to purpose.

2. When an applicant seeks assistance from a local government agency or a voluntary organization (as defined at 44 CFR 206.2(a)(27), as amended or superseded) charged under legislation or charter with administering disaster relief programs, and FEMA receives a written request from that local government or voluntary agency that includes the applicant's name, date of birth, FEMA registration/application number, and damaged dwelling address. The written request must explain the type of tangible assistance being offered and the type of verification required before the assistance can be provided.

3. To voluntary organizations (as defined at 44 CFR 206.2(a)(27), as amended or superseded) that have an established disaster assistance program to address the disaster-related unmet needs of disaster victims, are actively involved in the recovery efforts of the disaster, and either have a national membership in good standing with the National Voluntary Organizations Active in Disaster (NVOAD), or are participating in the FEMA or State recognized disaster's Long-Term Recovery Committee. When a voluntary agency satisfies all of the criteria listed in this sub-paragraph, FEMA may release lists of individuals' names, contact information, and their FEMA inspected loss amount to the voluntary agency for the sole purpose of providing additional disaster assistance. FEMA shall release this information only from the time that disaster period is first open until 90 days after the disaster period is closed.

4. FEMA may immediately disclose, on a case-by-case basis, applicant information to an entity qualifying under routine use (H)(3) above or to an entity approved by the FEMA Disability Coordinator, if the applicant in question has a special need for durable medical equipment or device, and the qualifying entity is able to provide the assistance to the applicant in question. Specifically, FEMA may release the applicants name and telephone number. A written request is not necessary in this situation, however FEMA shall provide a written letter along with the information to receiving entity, and in turn the receiving entity shall send FEMA an acknowledgement letter that it has received the information and has contacted the applicant. In addition, the entity will confirm that it has taken the steps to protect the information provided. Only the FEMA Disability Coordinator or designee is authorized to approve a release under this routine use.

I. To relevant agencies, organizations, and institutions when an individual's eligibility, in whole or in part, for a disaster assistance program depends upon benefits already received or available from another source for the same purpose as necessary to determine what benefits are available from another source and to prevent the duplication of disaster assistance benefits (as described in section 312 of the Stafford Act).

J. To Federal, State, or local agencies in response to a written request, FEMA may disclose information charged with the implementation of hazard mitigation measures and the enforcement of hazard-specific provisions of building codes, standards, and ordinances. FEMA may only disclose information for the following purposes:

1. For hazard mitigation planning purposes to assist States and local communities in identifying high-risk areas and preparing mitigation plans that target those areas for hazard mitigation projects implemented under Federal, State or local hazard mitigation programs.

2. For enforcement purposes, to enable State and local communities to ensure that owners repair or rebuild structures in conformance with applicable hazard-specific building codes, standards, and ordinances.

K. To the Department of the Treasury, pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. 3325(d) and 7701(c)(1), on the release of a social security number of the person doing business with FEMA, including an applicant for a grant. An applicant's social security number will be released in connection with a request for payment to the Department of the Treasury to provide a disaster assistance payment to an applicant under the Individual Assistance program.

L. To a State in connection with billing that State for the applicable non-Federal cost share under the Individuals and Households Program. Information shall only include list of applicants' names, contact information, and amounts of assistance received.

M. To local emergency managers, when an applicant is occupying a FEMA Temporary Housing unit, for the purposes of preparing, administering, coordinating and/or monitoring emergency response, public safety, and evacuation plans. FEMA shall only release the address and location of the housing unit.

N. To the Department of the Treasury, Justice, the United States Attorney's Office, or a consumer reporting agency for further collection action on any delinquent debt when circumstances warrant.

O. To Federal or State law enforcement authority, or agency, or other entity authorized to investigate and/or coordinate locating missing children and/or reuniting families.

P. To State and local government election authorities to oversee the voting process within their respective State/county/parish, for the limited purpose of ensuring voting rights of individuals who have applied to FEMA for Disaster Assistance, limited to their own respective State's/county's/parish's citizens who are displaced by a Presidentially-declared major disaster or emergency out of their State/county/parish voting jurisdiction.

Q. To certain Federal, State, local, and tribal agencies where FEMA may disclose an applicant's disaster related information to update the applicant's current records (i.e. change of address, effective date of change of address, *etc.*) within that agency to reduce additional efforts following a Presidentially-declared disaster (i.e. Social Security Administration, a state Department of Motor Vehicles, or state health agency that needs updated contact information).

R. To other Federal agencies or non-Federal entities under approved computer matching efforts, if use of such information is compatible with the purpose for which DHS collected the information. Sharing is limited to only those data elements considered relevant and necessary to determine eligibility under particular benefit programs administered by those agencies or entities or by DHS or any component thereof to improve program integrity, and to collect debts and other monies owed under those programs.

S. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with Counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of the Department or is necessary to demonstrate the accountability of the Department's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure under 5 U.S.C. 552a(b)(12). DHS/FEMA may make disclosures from this system to ''consumer reporting agencies'' as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f), as amended; or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3), as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored in an interactive database, computer discs, and paper records in file folders.

RETRIEVABILITY:

Records may be retrieved by an individual's name, address, social security number, and case file number.

SAFEGUARDS:

Only authorized FEMA employees and contractors have access to this information. Hardware and software computer security measures are used to control access to the data. Access to the data is based upon an individual's position in FEMA and/or their designated duties. Individuals are assigned specific ''rights'' or specific access (*e.g.,* read only, modify, delete, *etc.*). The access granted is based upon an individual's position responsibilities for ''official use'' only. FEMA employees are allowed access to the data as a function of their specific job assignments within their respective organizations. Each FEMA employee's access to the data is restricted to that needed to carry out their duties.

No individual applying for disaster assistance will have access to the entire database via the Internet. Applicants will have limited access to only their own information that they submitted via the Internet, and to the status of their own information regarding the processing of their own application (*e.g.* the status of required documentation, inspection status, or SBA status). Applicants are provided a Logon id, password, and Personal Identification Number (PIN) that connect only to the applicant's data. The password and PIN ensures that the login id belongs to the applicant. Computer security software ensures that the login id is mapped only to the applicant's data. Applicants will have access to only their own application information after FEMA assigns them a properly authenticated user id, password, and PIN. Applicants will be registered and authenticated in accordance with National Institute of Standards and Technology Level 2 Assurance guidelines.

RETENTION AND DISPOSAL:

Records pertaining to individual assistance EXCEPT those relating to temporary housing and Individuals and Households Program programs will retire to inactive storage when two years old and destroyed when six years three months old in accordance with FEMA Records Schedule No. N1–311–86–1, item 4C10a. Records pertaining to temporary housing will be destroyed three years after close of the operation in accordance with FRS No. N1–311–86–1, item 4C10b. Closeout occurs when the disaster contract is terminated. Records pertaining to the IHP program will retire to the Federal Records Center (FRC) one year after closeout and destroyed three years after closeout.

SYSTEM MANAGER AND ADDRESS:

Division Director, Individual Assistance Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Headquarters or component's FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her the individual may submit the request to the Chief Privacy Officer, Department of Homeland Security, 245 Murray Drive, SW., Building 410, STOP–0550, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Identify which component(s) of the Department you believe may have the information about you,
- Specify when you believe the records would have been created,
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records,
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

FEMA receives information from individuals who apply for disaster recovery assistance through three different media: (1) Electronically via the Internet at *http://www.disasterassistance.gov*; (2) by calling FEMA's toll-free number 1–800–621–3362, and (3) through submission of a paper copy of FEMA Form 90–69. In addition information in this records system may come from credit rating bureaus, financial institutions, insurance companies, State, local and voluntary agencies providing disaster relief, and commercial databases (for verification purposes).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 14, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–23015 Filed 9–23–09; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2009–0113]

Privacy Act of 1974; Federal Emergency Management Agency—001 National Emergency Family Registry and Locator System System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of Privacy Act system of records.

SUMMARY: Pursuant to the Post-Katrina Emergency Management Reform Act of 2006, and the Privacy Act of 1974, as amended, the Department of Homeland Security is giving notice that the Federal Emergency Management Agency, Disaster Assistance Directorate, Individual Assistance Branch, Emergency Support Function 6–Mass Care section, is establishing a new system of records entitled the Federal Emergency Management Agency—001 National Emergency Family Registry and Locator System.

This system of records will enable the Federal Emergency Management Agency to provide a nationally accessible electronic system that will allow adults displaced from their homes or pre-disaster location after a Presidentially-declared emergency or disaster to voluntarily register themselves, and to identify up to seven family or household members they agree to allow access to their personal identifying information that may potentially include their current location or a special message to an identified individual. The Federal Emergency Management Agency's system will allow two groups of individuals limited information for the purpose of reuniting them: (1.) Registrants: displaced individuals registered in the system; and (2.) searchers: individuals who are searching for family or household members. Those registering in the system or those seeking displaced family or household members can access the system via the Internet at *https://asd.fema.gov/inter/nefrls/home.htm* or by telephone via toll-free number 1–800–588–9822.

DATES: Submit comments on or before October 26, 2009. This new system will be effective October 26, 2009.

ADDRESSES: You may submit comments, identified by DHS–2009–0113 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 703–483–2999.
- *Mail:* Mary Ellen Callahan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.
- *Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.
- *Docket:* For access to the docket to read background documents or comments received go to *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Larry Gary, Privacy Officer, Federal Emergency Management Agency, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472. For privacy issues please contact: Mary Ellen Callahan (703–235–0780), Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

During Hurricane Katrina, displaced individuals experienced numerous difficulties in reuniting with family members after the disaster. As a result, Congress mandated in Section 689c of the Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006, Public Law 109–295, that the Federal Emergency Management Agency (FEMA) establish the National Emergency Family Registry and Locator System (NEFRLS). FEMA has the discretionary authority to activate NEFRLS to help reunify families separated after an emergency or disaster declared by the President as defined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207.

Pursuant to the savings clause in the Homeland Security Act of 2002, Public Law 107–296, Section 1512, 116 Stat. 2310 (November 25, 2002), and in accordance with the Post-Katrina Emergency Management Reform Act (PKEMRA) of 2006, Public Law 109–295, and the Privacy Act of 1974, as amended, the Department of Homeland Security (DHS) gives notice that FEMA's, Disaster Assistance Directorate, Individual Assistance Branch, Emergency Support Function 6–Mass Care section, is establishing a new system of records entitled the ''Federal Emergency Management Agency National Emergency Family Registry and Locator System.''

This system of records will enable FEMA to provide a nationally accessible electronic system that will allow adults, displaced from their homes or pre-disaster location after a Presidentially-declared emergency or disaster, to voluntarily register themselves, and to identify up to seven family or household members they grant, in writing, access to their personal identifying information. This personal identifying information may potentially include their current location or a special message to an identified individual. FEMA's system will allow two groups of individuals limited access for the purpose of reuniting them: (1.) Registrants: Displaced individuals registered in the system; and (2.) searchers: individuals who are searching for family or household members who registered in the system. This second group may or may not be displaced from their homes and may or may not be registered in the system. A displaced individual or ''registrant'' is one whose pre-disaster primary residence is uninhabitable or inaccessible as a direct result of a Presidentially-declared emergency or disaster. A household member may be any person who lived in the registrant's pre-disaster residence immediately preceding the disaster.

As mandated in the statute authorizing this system, medical patients who have been displaced due to a disaster or emergency will also have access to and may voluntarily register in the system. A medical patient includes an individual who receives medical care on a daily basis by a licensed medical professional and/or has a pre-disaster address in a hospital, field hospital, or nursing home. Generally, this would not include an assisted living facility but may also include on a case-by-case basis. Those registering in the system or those seeking displaced family can access the system either electronically via the Internet at *https://asd.fema.gov/inter/nefrls/home.htm* or by telephone via toll-free 1–800–588–9822.

II. Privacy Act

The Privacy Act embodies fair information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other personal identifying information assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and legal permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DHS by complying with DHS Privacy Act regulations, 6 CFR part 5.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals to more easily find such files within the agency. Below is the description of the ''Federal Emergency Management Agency National Emergency Family Registry and Locator System'' system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this new system of records to the Office of Management and Budget and to Congress.

SYSTEM OF RECORDS:

DHS/FEMA—001.

SYSTEM NAME:

Federal Emergency Management Agency National Emergency Family Registry and Locator System.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Records are maintained at the Federal Emergency Management Agency Headquarters in Washington, DC and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: Registrants (adult individual(s)) who have been displaced by a Presidentially-declared disaster or emergency and who voluntarily register in the National Emergency Family Registry and Locator System system; Family or Household Members who are travelling with the registrant, or who lived in the pre-disaster residence immediately preceding the disaster; and Searchers who are searching for missing family or household members.

Searchers are permitted to view personal information and/or messages of certain registrant(s) upon designation by the registrant(s).

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

Information about the individual registering in the National Emergency Family Registry and Locator System (''registrant'') consists of:

- Authenticated Individual's Full Name;
- Date of Birth;
- Gender;
- Current Phone;
- Alternate Phone;
- Current Address;
- Pre-Disaster Address;
- Name and Type of Current Location; (*i.e.* shelter, hotel, or family/friend's home);
- Traveling with Pets (Yes or No);
- Identity Authentication Approval or Nonapproval, the fact of the authentication is maintained, but the answers to the questions provided to the third party organization are not maintained by DHS/FEMA;
- System specific username and password; and
- Personal Message (may consist of up to 300 characters intended for designated family or household members to read).

Information about the family/household members traveling with the registrant in the National Emergency Family Registry and Locator System consists of:

- Family/Household Members Full Name;
- Gender;
- Current Phone;
- Alternate Phone;
- Current Address;
- Pre-Disaster Address;
- Name and Type of Current Location; (*i.e.* shelter, hotel, or family/friend's home);
- Traveling with Pets (Yes or No);
- Personal Message: (may consist of up to 300 characters for listed, designated family, or household members to read.)

Information about the individual searching the National Emergency Family Registry and Locator System for a registrant or family/household member (searcher) consists of:

- Searching Individual's Full Name;
- Permanent Address;
- Phone;
- Alternate Phone;
- E-mail;
- Date of Birth;
- Identity Authentication Approval or Nonapproval, the fact of the authentication is maintained, but the answers to the questions provided to the third party organization are not maintained by DHS/FEMA; and
- System specific username and password.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Emergency Family Registry and Locator System, section 689c of the Post-Katrina Emergency Management Reform Act of 2006, Public Law 109–295 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. 5121–5207.

PURPOSE(S):

The purpose of this system is to reunify families and household members following a Presidentially-declared disaster or emergency. To families using the National Emergency Family Registry and Locator System system of records, the registrant and searcher must acknowledge that the information in National Emergency Family Registry and Locator System may be disclosed to searchers upon request, to Federal agencies, State and local governments as well as law enforcement or voluntary agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ) (including United States Attorney Offices) or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee of DHS in his/her official capacity;

3. Any employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and DHS determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which DHS collected the records.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or other Federal Government agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. sections 2904 and 2906.

D. To an agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) or harm to the individual that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To Federal agencies; State, tribal and local governments; Federal, State, and local law enforcement agencies; the National Center for Missing and Exploited Children and voluntary organizations as defined in 44 CFR 206.2(a)(27) that have an established disaster assistance program to address the disaster-related unmet needs of disaster victims, are actively involved in the recovery efforts of the disaster, and either have a national membership, in good standing, with the National Voluntary Organizations Active in Disaster, or are participating in the disaster's Long-Term Recovery Committee for the express purpose of reunifying families. Other agencies may include other Federal agencies and non-governmental agencies with which FEMA coordinates under the National Response Framework, which is an integrated ''plan'' explaining how the Federal Government will interact with and support State, local, tribal, and non-governmental entities during a Presidentially-declared disaster or emergency. This may include: The Office of Juvenile Justice and Delinquency Prevention, Department of Health and Human Services, U.S. Department of Justice, U.S. Federal Bureau of Investigation's Crimes Against Children's Unit, Department of Justice U.S. Marshals Service, the American Red Cross, and the National Emergency Child Locator Center.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically or on paper in secure facilities in a locked drawer behind a locked door. The records are stored on magnetic disc, tape, digital media, and CD–ROM.

RETRIEVABILITY:

Records may be retrieved by name, address (current and alternate), and phone number of the individual registering or searching in the National Emergency Family Registry and Locator System.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Administrative access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. The system maintains a real-time auditing function of individuals who access the system.

RETENTION AND DISPOSAL:

In accordance with the FEMA Records Schedule (FRS), the National Archives, and Records Administration (NARA) Disposition Authority number N1–311–09–1, records and reports related to and regarding registrations and searchers in NEFRLS performed by a displaced person, Call Center Operator on behalf of a displaced person, or family and friends will be cut off 60 days after the last edit to the record and destroyed/deleted 3 years after the cutoff. Additionally, in compliance with FRS, NARA Disposition Authority number N1–311–04–5, Item 3, records in this system associated with a domestic catastrophic event will have permanent value. A catastrophic event may be any natural or manmade incident, including terrorism, which results in extraordinary levels of mass casualties, damage, or disruption severely affecting the population, infrastructure, environment, economy, national morale, and/or government functions. A catastrophic event could result in sustained national impacts over a prolonged period of time; almost immediately exceeds resources normally available to State, local, tribal, and private-sector authorities in the impacted area; and significantly interrupts governmental operations and emergency services to such an extent that national security could be threatened.

SYSTEM MANAGER AND ADDRESS:

Deputy Director, Individual Assistance, Disaster Assistance Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to FEMA's FOIA Officer, 500 C Street, SW., Attn: FOIA Coordinator, Washington, DC 20472.

When seeking records about yourself from this system of records or any other FEMA system of records your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits Statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Director, Disclosure and FOIA, *http://www.dhs.gov* or 1–866–431–0486. In addition you should provide the following:

- An explanation of why you believe the Department would have information on you,
- Specify when you believe the records would have been created,

• If your request is seeking records pertaining to another living individual, you must include a Statement from that individual certifying his/her agreement for you to access his/her records.

Without this bulleted information the FEMA may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records are obtained by registrants for the National Emergency Family Registry and Locator System, individuals searching the National Emergency Family Registry and Locator System; and third party authentication services indicating an individual has been approved or not approved.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: September 14, 2009.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. E9–23018 Filed 9–23–09; 8:45 am]

BILLING CODE 9110–17–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Senior Executive Service Performance Review Board

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Senior Executive Service Performance Review Boards for the Department of Homeland Security. The purpose of the Performance Review Board is to view and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of Senior Executive Service positions of the Department.

DATES: *Effective Dates:* This Notice is effective September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Carmen Arrowood, Office of the Chief Human Capital Officer, telephone (202) 357–8348.

SUPPLEMENTARY INFORMATION: Each Federal agency is required to establish one or more performance review boards (PRB) to make recommendations, as necessary, in regard to the performance of senior executives within the agency. 5 U.S.C. 4314(c). This notice announces the appointment of the members of the PRB for the Department of Homeland Security (DHS). The purpose of the PRB is to review and make recommendations concerning proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions for incumbents of SES positions within DHS.

The Board shall consist of at least three members. In the case of an appraisal of a career appointee, more than half of the members shall consist of career appointees. Composition of the specific PRBs will be determined on an ad hoc basis from among the individuals listed below:

Acton, John C., Aguilar, David V., Alikhan, Arif, Anderson, Gary L., Armstrong, Charles R., Ashley, Russ, Aytes, Michael L., Baldwin, William D., Barr, Suzanne E., Barth, Richard C.;

Bartoldus, Charles P., Bathurst, Donald G., Beckwith, Brian R., Bell, Hubert T., Bersin, Alan D., Bertucci, Theresa C., Bester-Markowitz, Margot, Borkowski, Mark S., Bourbeau, Sheryl L., Boyd, David G.;

Braun, Jacob, Bray, Robert S., Brooks, Vicki, Brundage, William, Bucher, Steven P., Buckingham, Patricia A., Burke, Dennis, Burke, Richard M., Buswell, Bradley I., Butcher, Michael;

Button, Christopher, Callahan, Mary Ellen, Capps, Michael, Carpenter, Dea D., Carter, Gary E., Carwile III, William L., Chaparro, James M., Cipicchio, Domenico C., Cohen, Robert, Cohn, Alan;

Cogswell, Patricia, Colburn, Christopher B., Collett, Gregory L., Connor, Edward L., Cooper, Bradford E., Coyle, Robert E., Cullen, Susan M., Cummiskey, Chris, Daitch, William, Davis, Delia P.;

Dayton, Mark, de Vallance, Brian, DeVita, Charles N., DiFalco, Frank, Dong, Norman S., Doyle, Christopher J., Duffy, Patricia M., Duke, Elaine C., Duong, Anh N., Ely, John;

Etzel, Jean A., Fagerholm, Eric N., Falk, Scott K., Farmer, Robert A., Flinn, Shawn O., Forman, Marcy M., Gaines, Glenn A., Gallaway, Charles, Garratt, David E., Garrison-Alexander, Emma M.;

Garza, Alexander, Gaugler, Christine E., George, Susan E., Gina, Allen, Gnerlich, Janet L., Gordon, Andrew S., Gowadia, Huban, Graves, Margaret H.;

Gruber, Corey D., Guilliams, Nancy W., Gunderson, Richard K., Hagan, William, Hansen, Jacob B., Heifetz, Stephen R., Hewitt, Ronald T. RADM, Heyman, David F.;

Hill, Alice, Hill, Marcus L., Holmes, Jr., K. David, Hooks, Robert R., Howe, James, Howell, David R., Humphrey IV, Hubert H., Ingram, Deborah S., Jensen, Robert R., Johnson, Bart R.;

Jones, Berl T., Jones, Christopher N., Jones, Franklin C., Jones, Rendell L., Kair, Lee R., Kauffman, Keith G., Kayyem, Juliette N., Keegan, Michael J., Keene, D. Kenneth, Kendall, Sarah M.;

Kerner, Francine, Kielsmeier, Lauren M., Kieserman, Brad J., Kibble, Kumar C., Kikla, Richard V., Kim, Leezie, Kish, James R., Kostelnik, Michael C., Koumans, Marnix R., Kraninger, Kathleen;

Krohmer, Jon R., Kroloff, Noah, Kronish, Matthew L., Kropf, John, Kruger, Mary, Lane, Jan P., Lawless, Margaret E., Lawrence, Cortez, Lenkart, Steven V.;

Lesher, Janet, Lewis, Ashley J., Logan, Mark, López, Marco A., Luczko, George P., Ludtke, Meghan G., Lute, Jane Holl, Maher, Joseph B., Manning, Timothy W., Massale, John J., May, Major P.;

McAllister, Lorna, McCormack, Luke J., McDermond, James E., McGinnis, Roger D., McNamara, Jason R., McNamara, Philip, McQuillan, Thomas R., Merritt, Michael, Mitchell, Andrew, Monette, Theodore A.;

Morrissey, Paul S., Moynihan, Timothy N., Muenchau, Ernest, Neal, Jeffrey R., Neufeld, Donald W., Newhouse, Victoria E., Nicholson, David, O'Connell, Maria L., Olavarria, Esther, Oliver, Clifford E.;

O'Melinn, Barry C., Onieal, Denis G., Palmer, David J., Parent, Wayne C., Parmer Jr., Raymond R., Patrick, Connie L., Peacock, Nelson, Peña, Alonzo R., Philbin, Patrick, Pierson, Julia A., Pressman, David;

Prewitt, Keith L., Ramanathan, Sue, Rausch, Sharla P., Reitinger, Philip, Risley, Lisa J., Robles, Alfonso, Russell, Michael D., Sammon, John P., Sandweg, John R., Sarubbi, Jonathan, Saunders, Steve D.;

Schaffer, Gregory, Schenkel, Gary W., Schied, Eugene H., Schriro, Dora B., Scialabba, Lori L., Sevier, Adrian, Shall, Daryl A., Shea, Bob F., Shelton Waters, Karen R., Sherry, Peggy;

Shih, Stephen T., Sligh, Albert B., Smith, A.T., Smith, Gregory B., Smith, Sean, Smith, William E., Spires, Richard, Stenger, Michael C.;

Teets, Gary, Tomsheck, James F., Torres, John P., Trautman, Tracey, Trissell, David A., Trotta, Nicholas, Tuttle, James D., Vincent, Peter S.;

Walke, James A., Walker, William J., Walton, Kimberly H., Ward, Nancy, Wareing, Tracy L., Warrick, Thomas, Watman, Kenneth H., Whalen, Mary Kate, Whitacre, Rex A., Whitford, Richard A.;

Wiggins, Chani, Williams, Gerard, Williams, Richard N., Winkowski, Thomas S., Woodard, Steven, Woodka, Janet L., Yeager, Michael J., Zimmerman, Elizabeth A.

This notice does not constitute a significant regulatory action under section 3(f) of Executive Order 12866. Therefore, DHS has not submitted this notice to the Office of Management and Budget. Further, because this notice is a matter of agency organization, procedure and practice, DHS is not required to follow the rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553).

Dated: September 8, 2009.

Randolph W. Kruger,

Director, Executive Resources, Office of the Chief Human Capital Officer.

[FR Doc. E9–23014 Filed 9–23–09; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5288–N–11]

Notice of Proposed Information Collection for Public Comment; Public Housing Reform Act: Changes to Admission and Occupancy Requirements for the Public Housing and Section 8 Assistance Programs

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 23, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Lillian L. Deitzer, Departmental Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW., Room 4178, Washington, DC 20410–5000; telephone 202.402.8048, (this is not a toll-free number) or e-mail Ms. Deitzer at *Lillian.L.Deitzer@hud.gov* for a copy of the proposed forms, or other available information.

FOR FURTHER INFORMATION CONTACT: Dacia Rogers, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410; telephone 202–708–0713, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public Housing Reform Act: Changes to Admission and Occupancy Requirements in the Public Housing and section 8 Assistance Programs.

OMB Control Number: 2577–0230.

Description of the need for the information and proposed use: The collection of information implements changes to the admission and occupancy requirements for the public housing and section 8 assisted housing programs made by the Quality Housing and Work Responsibility (QHWRA) Act 1998 (Title V of the FY 1999 HUD appropriations Act, Public Law 105–276, 112 Stat. 2518, approved October 21, 1998), which amended the United States Housing Act of 1937. QHWRA made comprehensive changes to HUD's public housing, section 8 tenant-based and project-based programs. Some of the changes made by the 1998 Act (*i.e.*, QHWRA) affect public housing only and others affect both the section 8 tenant-based and project-based and public housing programs. These changes cover choice of rent, community service and self-sufficiency in *public housing*; and admission preferences and determination of income and rent in *public housing and section 8 housing assistance programs*.

Agency form numbers: None.

Members of affected public: Public Housing Agencies (PHAs), State or Local Government; Individuals or households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Number of respondents	Annual responses	×	Hours Per response	=	Burden hours
4,113 (PHAs)	4,113		25		102,825

Status of the proposed information collection: Extension of a Currently Approved Collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 18, 2009.

Bessy Kong,

Deputy Assistant Secretary for Policy, Programs, and Legislative Initiatives.

[FR Doc. E9–23071 Filed 9–23–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5287–N–03]

Notice of Proposed Information Collection for Public Comment: Survey of Manufactured (Mobile) Home Placements

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 23, 2009.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to: Carolyn Lynch, Department of Housing and Urban Development, 451 7th Street, SW., Room 8222, Washington, DC 20410; telephone (202) 402–5910 (this is not a toll-free number), (or via e-mail at *Carolyn.Lynch@hud.gov*) or Michael Davis, U.S. Census Bureau, Manufacturing and Construction Division, 4700 Silver Hill Road, Washington, DC 20233–6900, at (301) 763–1605 (or via e-mail at *Michael.Davis@census.gov*).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

I. Abstract

The Survey of Manufactured (Mobile) Home Placements collects data on the characteristics of newly manufactured homes placed for residential use including number, sales price, location, and other selected characteristics. HUD uses the statistics to respond to a Congressional mandate in the Housing and Community Development Act of 1980, 42 U.S.C. 5424 note, which requires HUD to collect and report manufactured home sales and price information for the nation, census regions, states, and selected metropolitan areas and to monitor whether new manufactured homes are being placed on owned rather than rented lots. HUD also used these data to monitor total housing production and its affordability.

Furthermore, the Survey of Manufactured (Mobile) Home Placements serves as the basis for HUD's mandated indexing of loan limits. Section 2145 (b) of the Housing and Economic Recovery Act (HERA) of 2008 requires HUD to develop a method of indexing to annually adjust Title I manufactured home loan limits. This index is based on manufactured housing price data collected by this survey. Section 2145 of the HERA of 2008 also amends the maximum loan limits for manufactured home loans insured under Title I. HUD implemented the revised loan limits, as shown below, for all manufactured home loans for which applications are received on or after March 3, 2009.

Loan type	Purpose	Old loan limit	New loan limit
MANUFACTURED HOME IMPROVEMENT LOAN.	For financing alterations, repairs and improvements upon or in connection with existing manufactured homes.	$17,500	$25,090
MANUFACTURED HOME UNIT(S)	To purchase or refinance a Manufactured Home unit(s)	48,600	69,678
LOT LOAN	To purchase and develop a lot on which to place a manufactured home unit.	16,200	23,226
COMBINATION LOAN FOR LOT AND HOME.	To purchase or refinance a manufactured home and lot on which to place the home.	64,800	92,904

II. Method of Collection

The methodology for collecting information on new manufactured homes involves contacting a monthly sample of new manufactured homes shipped by manufacturers. The units are sampled from lists obtained from the Institute for Building Technology and Safety. Dealers that take shipment of the selected homes are mailed a survey form for recording the status of the manufactured home. Each successive month, the dealer is contacted by telephone and provides updated status information about the home. Contact continues until the selected home is placed.

III. Data

OMB Control Number: 2528–0029.

Form Number: C–MH–9A.

Type of Review: Regular submission.

Affected Public: Business firms or other for-profit institutions.

Estimated Number of Respondents: 4,800.

Estimated Time per Response: 30 min.

Estimated Total Annual Burden Hours: 2,400.

Estimated Total Annual Cost: $51,912.

Respondent's Obligation: Voluntary.

Legal Authority: Title 42 U.S.C. 5424 note, Title 13 U.S.C. Section 8(b), and Title 12, U.S.C., Section 1701z–1.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 16, 2009.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. E9–23072 Filed 9–23–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974, as Amended; Revisions to the Existing System of Records

AGENCY: Office of the Secretary, National Business Center, Aviation Management Directorate (AMD), Interior.

ACTION: Proposed Revisions to an Existing System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Office of the Secretary, National Business Center, Aviation Management Directorate (NBC–AMD) is issuing public notice of its intent to modify an existing Privacy Act system of records, DOI–07, ''Federal and Non-Federal Aviation Personnel, Equipment, and Mishap Information System.'' The revisions will reflect the reorganization of the old Office of Aircraft Services into the current Aviation Management Directorate, with changes in office names, locations, and contact numbers. Further updates reflect the implementation of a new electronic Interagency Aviation Accident Database (IAAD) used for querying the collection of aviation accident and incident-with-potential (IWP) reports compiled by the USDA Forest Service and NBC–AMD for trend analysis of factors contributing to aviation mishaps. It also serves a secondary function as an archive of aviation accident and IWP investigation documents.

DATES: Comments must be received by November 3, 2009.

ADDRESSES: Send written comments to the U.S. Department of the Interior, Office of the Secretary, Privacy Officer, 1951 Constitution Avenue, NW., MS 116 SIB, Washington, DC 20240. You may also e-mail comments to *Linda_Thomas@nbc.gov*, or fax them to (202) 219–2374. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: Associate Director, National Business Center, Aviation Management, 300 E. Mallard Drive, Suite 200, Boise, Idaho 83706. You may also telephone (208) 433–5000.

SUPPLEMENTARY INFORMATION: The NBC–AMD is proposing to amend the system notice for DOI–07, ''Federal and Non-Federal Aviation Personnel, Equipment, and Mishap Information System'' to reflect organizational changes. The Office of Aircraft Services was reorganized under the National Business Center as the Aviation Management Directorate. AMD's area offices were re-categorized as regional offices; locations and contact numbers were changed. Accordingly, the NBC–AMD proposes to amend the ''Federal and Non-Federal Aviation Personnel, Equipment, and Mishap Information System,'' DOI–07. Comments received within 40 days of publication in the **Federal Register** will be considered. The system changes will be effective as proposed at the end of the comment period unless comments are received which would require a contrary determination. The Department will publish a revised notice if changes are made based upon a review of comments received.

Dated: September 21, 2009.

Linda S. Thomas,

Privacy Officer, Office of the Secretary.

Privacy Act; Systems of Records

SYSTEM NAME:

Federal and Non-Federal Aviation Personnel, Equipment, and Mishap Information Systems—Interior, Office of the Secretary, DOI–07.

SYSTEM LOCATION:

(1) National Business Center, Aviation Management Directorate, Aviation Safety and Evaluations Office, 300 E. Mallard Drive, Suite 200, Boise, Idaho 83706, (2) National Business Center, Aviation Management Directorate, Division of Technical Services, 300 E. Mallard Drive, Suite 200, Boise, Idaho 83706, (3) National Business Center, Aviation Management Directorate, Alaska Regional Office, 4405 Lear Court, Alaska 95502–1052, (4) National Business Center, Aviation Management Directorate, Western Regional Office—Boise, 960 Broadway Avenue, Suite 300, Boise, Idaho 83706, (5) National Business Center, Aviation Management Directorate, Western Regional Office—Phoenix, 22601 North 19 Avenue, Suite 208, Phoenix, Arizona 85027, (6) National Business Center, Aviation Management Directorate, Eastern Regional Office, 3190 NE. Expressway, Suite 110, Chamblee, GA 30341.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

The system contains information relative to certificates, qualifications, experience levels, training and proficiency, and performance of individuals. Identifying information pertaining to individuals includes name, birth date, and social security number or FAA certificate number. The system also contains aviation mishap data pertaining to accidents, incidents-with-potential (IWPs), incidents, aviation hazards and maintenance deficiencies. This information includes accident summary, accident and other mishap reports, type of mishap, contributing factors, aircraft identification data, and pilot, crewmember, and mechanic certificate number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Department of the Interior Manual, sections 112 DM 10; 350 DM 1; 350 DM1 Appendix 2; and 352 DM1. Additionally, 5 U.S.C. 301; and Reorganization Plan 3 of 1950.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USER AND THE PURPOSES OF SUCH USES:

Disclosures within the Department of the Interior may be made to employees of the Department: (1) To determine aircraft/crew/mechanic/ground personnel qualifications to comply with the NBC–AMD procedures and directives: (2) To perform aircraft mishap trend analysis and develop statistical data for use in the Interior Aircraft Accident Prevention Program.

Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when, (a) the United States, the Department of the Interior, a component of the Department, or when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) To appropriate Federal, State, local or

foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license when the Department or one of bureaus or offices becomes aware of information indicating a violation or potential violation of a statute, regulation, rule, order or license; (3) To a Federal agency which has requested information necessary or relevant to the hiring, firing, or retention of an employee, or issuance of a security clearance, contract, license, pilot qualification card, grant or other benefit, but only to the extent that the information disclosed is relevant and necessary to the requesting agency's decision on the matter; (4) To Federal, State, local agencies or commercial businesses where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, license, pilot qualification card, grant or other benefit; (5) To a congressional office from the record of an individual covered by the system in response to an inquiry the individual, or the heir of such individual if the covered individual is deceased, has made to the congressional office; (6) To an expert, consultant, or contractor (including employees of the contractor) of the Department of the Interior that performs, on behalf of the DOI, services requiring access to these records; (7) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained; (8) To representatives of the General Services Administration or the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2903 and 2904; and (9) to the U.S. Forest Service in joint efforts to perform trend analysis on aviation accidents that occur on flights conducted.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually, in file folders or on microfiche film, or electronically, in computer files located on the Aviation Management Directorate's local area network accessed at the above address(es).

RETRIEVABILITY:

(1) Records on Interior employees are indexed by agency, location, name, FAA certificate number, social security number, duty classification, type of mishap, accident summary and date of birth; (2) Records on commercial operator personnel are indexed by name, FAA certificate number, social security number, type of mishap, accident summary, and date of birth; (3) Records on cooperating government agencies, organizations, and private individuals are indexed by agency, location, name, FAA certificate number, social security number, type of mishap, accident summary and date of birth; (4) Records stored in the IAAD can be retrieved by mishap number, date, time, aircraft tail number, aircraft ID, aircraft type, aircraft manufacturer, aircraft model, vendor name, light conditions, visibility, weather conditions, event type, procurement, home base, accident location, State, operational control, type of mission, type of flight profile, pilot-in-command, second-in-command, number of crew members, number of qualified non-crewmembers, number of passengers, total number of souls on board, number of injuries, fatigue factors, flight hours, phase of occurrence, human factors, National Transportation Safety Board findings, probable cause, and costs.

SAFEGUARDS:

TECHNICAL SECURITY:

Access to records is limited to Departmental and contract personnel who are granted password access, and have an official need to use the records in the performance of their duties in accordance with requirements found in the DOI's Privacy Act regulations (43 CFR 2.51). Additionally, electronic records are protected by a firewall, network authentication (secure server), encryption, and file integrity auditing software meeting the requirements of 43 CFR 2.51 which conform to Office of Management and Budget and Departmental guidelines reflecting the implementation of the Federal Information Security Management Act.

PHYSICAL SECURITY:

Each geographic location is physically secured by entry access cards. When data is not in use by authorized personnel, paper and microfiche records are stored in locked file cabinets or in secured rooms. Electronically stored records are protected from unauthorized access through use of access codes, entry logs, and other system-based protection methods. The computer servers in which records are stored are located in computer facilities that are secured by alarm systems and off-master key access. A Privacy Act Warning Notice appears where records containing information on individuals are stored or displayed. Backup tapes are stored in a locked and controlled room in a secure, off-site location.

ADMINISTRATIVE SECURITY:

All Departmental and/or contract employees must undergo mandatory records, security, and IT training before access is granted.

RETENTION AND DISPOSAL:

Records will be disposed of in accordance with the National Archives and Records Administration General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

(1) Aviation Safety and Evaluations Manager, NBC–AMD, Aviation Safety and Evaluations Office, 300 E. Mallard Drive, Suite 200, Boise, Idaho 83706, (2) Chief, Division of Technical Services, NBC–AMD, 300 E. Mallard Drive, Suite 200, Boise, Idaho 83706, (3) Regional Director, NBC–AMD, Alaska Regional Office, 4405 Lear Court, Alaska 95502–1052, (4) Regional Director, NBC–AMD, Western Regional Office—Boise, 960 Broadway Avenue, Suite 300, Boise, Idaho 83706, (5) Regional Director, NBC–AMD, Eastern Regional Office, 3190 NE Expressway, Suite 110, Chamblee, GA 30341.

NOTIFICATION PROCEDURE:

A request for notification of the existence of records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access to records shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A request for amendment of a record shall be addressed to the appropriate System Manager. The request shall be in writing, signed by the requestor, and comply with the content requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Data originates from: (1) Professional, dual-function and incidental pilots, air crews, mechanics and ground personnel employed by Interior bureaus; (2) Pilots, aircrews, mechanics, and ground personnel of commercial operators, utilized by Interior bureaus; (3) Pilots, aircrews, mechanics, and ground personnel of cooperating government agencies, organizations and private

individuals, or (4) aviation mishap investigation reports.

[FR Doc. E9–23114 Filed 9–23–09; 8:45 am]

BILLING CODE 4310–RM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO350000.L14200000]

Cadastral Survey: Notice of Availability of the Next Edition of the Manual of Surveying Instructions

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of the Bureau of Land Management's (BLM) 2009 edition of the *Manual of Surveying Instructions* (Manual) to support implementation of the policy, responsibility, coordination, and procedures the BLM uses to conduct official surveys of Federal lands and ownership interests delineated on the ground and described in the official records of the United States.

DATES: You may submit written comments on the Manual within 90 days following the date this Notice of Availability is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Robert W. Dahl, Cadastral Surveyor, (202) 912–7344, *Robert_W_Dahl@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

ADDRESSES: You may submit comments by any of the following methods:

Fax: (202) 452–7708.

Mail: U.S. Department of the Interior, Director (350), Bureau of Land Management, Mail Stop 1000 LS, 1849 C St., NW., Attention: AD300, Washington, DC 20240.

Personal or messenger delivery: 1620 L Street, NW., Room 1000, Washington, DC 20036.

SUPPLEMENTARY INFORMATION:

Background

The Congress of the Confederation established the Public Land Survey System (PLSS) in 1785, under which our nation's public and private lands were systematically surveyed into the townships and sections we know today. Congress saw land surveys as a way to raise revenue for a cash-strapped nation and as necessary to bring order and to allow lands to be subdivided and sold to settlers and land speculators. The PLSS has formed the framework for all land title, both public and private, in all States except those formed from the territory of the original 13 colonies, Texas, and Hawaii.

The predecessor to the BLM, the General Land Office, first created the *Manual of Surveying Instructions* in 1855. Over the years, the Manual has become the standard by which 256 Federal Authority Surveyors, 278 Certified Federal Surveyors, and some 50,000 private surveyors adhere to in conducting surveys on the PLSS. All 50 States use the Manual for testing and licensing professional surveyors. The American Bar Association, and real estate and title insurance industries also look to the Manual for guidance.

Discussion of the Notice

This notice announces the availability of the 2009 edition of the Manual for use on surveys and resurveys of the official boundaries of all Federal lands and ownership interests authorized or approved by the BLM. The Manual provides instructions, supplemental information, guidance and examples to assure consistency with the Department of the Interior's Departmental Manual; the Federal Geographic Data Committee's Subcommittee on Cadastral Data's Cadastral Data Content Standard for the National Spatial Data Infrastructure; and the Office of Management and Budget's Circular No. A–16 revised, Coordination of Geographic Information and Related Spatial Data Activities. The Manual was last updated in 1973 and the 2009 edition is necessary to update the information and to reflect current BLM instructions and guidance. The public can review the 1973 edition on the BLM Web site at *http://www.blm.gov/wo/st/en/prog/more/cadastralsurvey/tools.html.* The 2009 edition of the Manual can be obtained through the Public Land Survey System Foundation Web site at *http://www.blmsurveymanual.org.* The Manual is based upon current law, regulation, policy, and procedures. The Manual reflects policy but is not a rulemaking. The Manual compiles in one document the updates to the law, regulation, policy, and procedures of surveying and boundaries as they have developed since 1973. The 2009 edition of the Manual is also designed to make the cadastral survey process more efficient, avoiding redundant or unnecessary recordkeeping. The 2009 edition includes updates to clarify definitions and incorporate new Departmental requirements and Interior Board of Land Appeals, Interior Board of Indian Appeals, and judicial decisions.

Written Comments

The public is welcome to review and comment on the Manual. Since today's publication is a notice of BLM's issuance of guidance, no formal comment period will occur. Therefore, BLM has no obligation to respond to or address comments from the public. If you choose to submit comments, please confine such comments to issues pertinent to the Manual itself, and explain the reasons for any recommended changes. Where possible, please reference the specific section or paragraph of the Manual which you are addressing. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Procedural Requirements

Although the Manual is not a rulemaking, we have addressed the various procedural requirements that are generally applicable to proposed and final rulemaking.

Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

Under Executive Order 12866, it has been determined that this action is the implementation of policy and procedures applicable only to the Federal Government and not a significant regulatory action. These policies and procedures would not impose a compliance burden on the general economy.

Administrative Procedure Act

The Manual is not subject to prior notice and opportunity to comment under the Administrative Procedure Act because it is not rulemaking; rather, it contains internal Department of Interior guidance. It is exempt from notice and comment because it constitutes general instructions of policy and procedures, 5 U.S.C. 553(b)(A).

The Regulatory Flexibility Act

The Manual is not subject to notice and comment under the Administrative Procedure Act, and, therefore, is not subject to the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The Manual provides the BLM with instruction and information under the authority of the Secretary of the Interior and does not compel any other party to conduct any action.

Small Business Regulatory Enforcement Fairness Act

This Manual is not a ''major rule'' as defined at 5 U.S.C. 804(2). That is, the manual will not have an annual effect on the economy of $100 million or more; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act, 2 U.S.C. 1501, *et seq.*, the Manual will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. The Manual does not require any additional management responsibilities. Further, it is not a significant regulatory action under the Unfunded Mandates Reform Act because the Manual will not produce a Federal mandate of $100 million or greater in any year. These policies and procedures are not expected to have significant economic impacts nor will they impose any unfunded mandates on other Federal, State, or local government agencies to carry out specific activities.

Federalism, Executive Order 13132

In accordance with Executive Order 13132, the Manual does not have significant Federalism effects, and therefore, a Federalism assessment is not required. The policies and procedures will not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments will not change; and fiscal capacity will not be substantially, directly affected. Therefore, the Manual does not have significant effects on or implications for Federalism.

Paperwork Reduction Act of 1995

The Manual does not require information collection as defined under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Therefore, the Manual does not constitute a new information collection system requiring Office of Management and Budget (OMB) approval.

National Environmental Policy Act (NEPA)

The BLM has determined that this 2009 edition of the Manual consists of general instructions of policy and procedure regarding the conduct of official surveys of Federal lands and ownership interests delineated on the ground and described in the official records of the United States. The BLM has developed the Manual in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, Council on Environmental Quality (CEQ) regulations, 40 CFR parts 1500–1508, and the Department of the Interior procedures for implementing NEPA, at 43 CFR part 46. The CEQ regulations at 40 CFR 1508.4 define a ''categorical exclusion'' as a category of actions that do not individually or cumulatively have a significant effect on the human environment. The BLM has determined that the Manual is categorically excluded from further environmental analysis under NEPA in accordance with 43 CFR 46.210(i), which categorically excludes ''[p]olicies, directives, regulations and guidelines: that are of an administrative, financial, legal, technical, or procedural nature * * *.'' In addition, the BLM has determined that none of the extraordinary circumstances listed in 43 CFR 46.215 applies to the Manual.

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, and 512 DM 2, the BLM has assessed the Manual's impact on Tribal trust resources and has determined that it does not directly affect Tribal resources since it describes the Department's procedures compliant with extant law, regulation, policy, and procedures for surveys and resurveys.

Effects on the Nation's Energy Supply (Executive Order 13211)

Executive Order 13211, requires a Statement of Energy Effects for significant energy actions. Significant energy actions are actions normally published in the **Federal Register** that lead to the promulgation of a final rule or regulation and may have any adverse effects on energy supply, distribution, or use. We have explained above that the Manual provides the BLM with instruction and information under the authority of the Secretary of the Interior and does not compel any other party to conduct any action. This Manual is not a rulemaking; and therefore, not subject to Executive Order 13211.

Actions To Expedite Energy-Related Projects (Executive Order 13212)

Executive Order 13212 requires agencies to expedite energy-related projects by streamlining internal processes while maintaining safety, public health, and environmental protections. Today's publication is in conformance with this requirement as it maintains streamlined processes and may enhance certainty as to the location of energy-related project boundaries.

Takings Implication Assessment (Executive Order 12630)

In accordance with Executive Order 12630, the Department has reviewed today's notice to determine whether it would interfere with constitutionally-protected property rights. The Secretary of the Interior shall not execute a resurvey as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey, 43 U.S.C. 772. The Manual describes how cadastral surveys are to be made in conformance with statutory law and its judicial interpretation and does not compel any other party to conduct any action.

Dated: September 8, 2009.

Robert V. Abbey,

Director, Bureau of Land Management.

[FR Doc. E9–23216 Filed 9–22–09; 4:15 pm]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–R–2008–N0094; 70133–1265–0000–S3]

Togiak National Wildlife Refuge, Dillingham, AK

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of the Revised Comprehensive Conservation Plan and Finding of No Significant Impact for the Environmental Assessment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce the availability of our Revised Comprehensive Conservation Plan (CCP) and Finding of No Significant

Impact (FONSI) for the Environmental Assessment (EA) for the Togiak National Wildlife Refuge (Togiak Refuge). In this revised CCP, we describe how we will manage this refuge for the next 15 years.

ADDRESSES: You may view or obtain copies of the revised CCP and FONSI by any of the following methods. You may request a paper copy, a summary, or a CD–ROM containing both.

Agency Web Site: Download a copy of the documents at *http://alaska.fws.gov/nwr/planning/togpol.htm*.

E-mail: fw7_togiak_planning@fws.gov.

Mail: Maggi Arend, Planning Team Leader, U.S. Fish and Wildlife Service, 1011 East Tudor Road, MS 231, Anchorage, AK 99503–6199.

In-Person Viewing or Pickup: Call (907) 786–3393 to make an appointment during regular business hours at the USFWS Regional Office, 1011 E. Tudor Road, Anchorage, AK 99503 or call (907) 883–5312 to make an appointment during regular business hours at Togiak Refuge, 6 Main Street, Dillingham, AK 99576.

FOR FURTHER INFORMATION CONTACT: Maggi Arend, Planning Team Leader, (907) 786–3393 or *fw7_togiak_planning@fws.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we finalize the CCP process for the Togiak Refuge. We started this process with a Notice of Intent in the **Federal Register** (64 FR 25899, May. 13, 1999) and a revised Notice of Intent in the **Federal Register** (71 FR 42116, July 25, 2006). We announced the availability of the draft CCP and EA, and requested comments in a notice of availability in the **Federal Register** (72 FR 54921, Sept. 27, 2007).

Togiak Refuge is located 400 miles west of Anchorage, Alaska. The Refuge is bordered to the south by Bristol Bay, to the west by Kuskokwim Bay, to the north by Yukon Delta National Wildlife Refuge and to the east by Wood-Tikchik State Park. Of the 4.7 million acres within the boundary, 4.2 million acres is under management by the Service, including the 2.3 million-acre Togiak Wilderness. Three major watersheds, the Kanketok, Goodnews, and Togiak rivers, provide abundant fish habitat within the Refuge, where more than 1 million salmon come to spawn each year. The Refuge also includes coastal areas varying from sandy beaches to steep rocky cliffs, including rare protected haul outs for Pacific Walrus.

We announce our decision and the availability of the FONSI for the revised CCP for the Togiak Refuge in accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment in the EA that accompanied the draft revised CCP.

The CCP will guide us in managing and administering the Togiak Refuge for the next 15 years. The revised CCP is Alternative 1, the preferred alternative in the draft CCP, developed in response to public scoping comments.

Background

The Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2371; ANILCA) and the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee) require us to develop a CCP for each Alaska refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. We will review and update the CCP at least every 15 years in accordance with national policy and ANILCA.

ANILCA requires us to designate areas according to their respective resources and values and to specify programs and uses within the areas designated. To meet this requirement, the Alaska Region established management categories for refuges including Wilderness, Minimal, Moderate, Intensive, and Wild River management. In the past, additional categories, including Cooperative Management were also included but are no longer used. For each management category we identified appropriate activities, public uses, commercial uses, and facilities. This revision reclassifies Cooperative Management lands as Minimal Management. Only Minimal and Wilderness management categories are applied to Togiak Refuge.

Draft CCP Alternatives

The Draft Plan identified one significant planning issue, the effect of management on activities and uses within the Togiak Refuge. Two alternatives were considered in the environmental assessment. Alternative 1, the Proposed Action, includes implementation of updated management guidelines, converting lands in Cooperative Management into Minimal Management, and adds Refuge goals and objectives. Alternative 2, Current Management, would continue to implement current management as outlined in the 1987 Comprehensive Plan, including the use of the Cooperative Management category. The Refuge would not have a clearly stated vision statement, goals and objectives to guide management.

Comments on the Draft CCP

Comments on the draft CCP/EA for Togiak Refuge were solicited by the Service from October 3, 2007, through January 18, 2008. During the public review and comment period the Service held public meetings in Anchorage, Dillingham, Quinhagak, Goodnews Bay, and Togiak, Alaska. The planning team reviewed, analyzed, and summarized all comments received at the public meetings and in writing.

Selected Alternative—Alternative 1

Two alternatives were considered in the environmental assessment. Alternative 1, the Proposed Action, encompasses policy development, changes, and clarifications made in the years since the implementation of the original Comprehensive Plan in 1987. It also converts lands in Cooperative Management into Minimal Management, and adds a Refuge vision statement, goals and objectives.

Dated: September 18, 2009.

Gary Edwards,

Acting Regional Director, U.S. Fish and Wildlife Service, Anchorage, Alaska.

[FR Doc. E9–23029 Filed 9–23–09; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–957400–09–L14200000–BJ0000]

Notice of Filing of Plats of Survey, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) has filed the plats of survey of the lands described below in the BLM Wyoming State Office, Cheyenne, Wyoming, on the dates indicated.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Land Management, and are necessary for the management of resources. The lands surveyed are:

The supplemental plat representing the segregation of Tract 54 from Tract 52

in Section 24, Township 41 North, Range 117 West, of the Sixth Principal Meridian, Wyoming, was accepted May 13, 2009.

The plat representing the entire record of the corrective dependent resurvey of the subdivision of section 4, Township 12 North, Range 60 West, of the Sixth Principal Meridian, Wyoming, Group No. 806, was accepted June 29, 2009.

The supplemental plat showing corrected lotting and acreage based on the plat approved March 4, 1993, Township 49 North, Range 78 West, of the Sixth Principal Meridian, Wyoming, was accepted June 29, 2009.

The plat representing the entire record of the dependent resurvey of portions of the subdivisional lines, Tract 37 and subdivision of Section 10, designed to restore the corners in their true original locations according to the best available evidence, Township 18 North, Range 99 West, of the Sixth Principal Meridian, Wyoming, Group No. 690, was accepted July 7, 2009.

The plat and field notes representing the dependent resurvey of a portion of the Fourth Standard Parallel North, through Ranges 82 and 83 West, a portion of the south and east boundaries, a portion of the subdivisional lines, and the subdivision of certain sections, Township 16 North, Range 83 West, of the Sixth Principal Meridian, Wyoming, Group No. 681, was accepted September 8, 2009.

The plat and field notes representing the dependent resurvey of a portion of the Fourth Standard Parallel North, through Ranges 81 and 82 West, a portion of the south and east boundaries, a portion of the subdivisional lines, and the subdivision of certain sections, Township 16 North, Range 82 West, of the Sixth Principal Meridian, Wyoming, Group No. 682, was accepted September 8, 2009.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 14, Township 51 North, Range 93 West, of the Sixth Principal Meridian, Wyoming, Group No. 786, was accepted September 8, 2009.

Copies of the preceding described plats and field notes are available to the public at a cost of $1.10 per page.

Dated: September 18, 2009.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. E9–23030 Filed 9–23–09; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: The Colorado College, Colorado Springs, CO; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of The Colorado College, Colorado Springs, CO. The human remains and associated funerary objects were removed from Canyon de Chelly, Apache County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects the minimum number of individuals and associated funerary objects in a Notice of Inventory Completion previously published in the **Federal Register** (72 FR 19920, April 14, 2004), and replaces it in its entirety with the following:

A detailed assessment of the human remains was made by The Colorado College professional staff in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1897–1898, human remains representing 11 individuals were removed from a cliff ruin in Chinlee Canon (a.k.a. Canyon de Chelly), Apache County, AZ, under the auspices of the C.B. Lang Expedition of 1897–1898. Prior to 1900, General William Jackson Palmer acquired what became known as the Lang-Bixby Collection, which he subsequently transferred to The Colorado College. After the museum was disbanded, the human remains were transferred to the College's Anthropology Department. The associated funerary objects that were not in direct contact with the human remains were transferred to the Colorado Springs Fine Arts Center (CSFAC) (formerly the Taylor Museum). A permanent loan agreement with the CSFAC is dated 1986. The six associated funerary objects are a cotton robe or blanket, which may also include feathers, that encases the human remains of a naturally mummified infant; two fragments of cotton cloth believed to have been a part of the robe or blanket; a yucca basket; a piece of bark; and one lot of cotton fabric identified at the time of collection as resembling a lamp wick; all of the funerary objects are associated with the human remains of a naturally mummified infant.

A physical anthropological assessment of the human remains resulted in a determination that the human remains are ancestral Puebloan based on the type of cranial deformation. This determination is supported by the funerary objects associated with one of the individuals, as well as the provenience.

In 1897–1898, human remains representing two individuals were removed from Chinlee Canon (a.k.a. Canyon de Chelly), Apache County, AZ, under the auspices of the C.B. Lang Expedition of 1897–1898. Prior to 1900, General William Jackson Palmer acquired what became known as the Lang-Bixby Collection, which he subsequently transferred to The Colorado College. After the museum was disbanded, the human remains were transferred to the College's Anthropology Department. No known individuals were identified. No associated funerary objects are present.

Canyon de Chelly, which is also known as Chinlee Canon, was a site of ancestral Puebloan occupation. Currently, the site is within the Navajo Indian Reservation. The Colorado College has determined that the lands from which the human remains and associated funerary objects were collected were not Federal lands at the time of collection.

A relationship of shared group identity can reasonably be traced between ancestral Puebloan and modern Puebloan peoples based on oral

tradition, folklore, and scientific studies. According to scientific studies and oral tradition the Navajo share some cultural practices with modern Puebloans. A preponderance of evidence supports cultural affiliation with modern Puebloan groups. There is not a preponderance of evidence to support Navajo cultural affiliation.

Officials of The Colorado College have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 13 individuals of Native American ancestry. Officials of The Colorado College also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the six objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of The Colorado College have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Chris Melcher, Legal Counsel/Director of Business, The Colorado College c/o Jan Bernstein, President, Bernstein & Associates—NAGPRA Consultants, 1041 Lafayette St., Denver, CO 80218, telephone (303) 894–0648, janbernstein@nagpra.info, before October 26, 2009. Repatriation of the human remains and associated funerary objects to the Hopi Tribe of Arizona may proceed after that date if no additional claimants come forward.

The Colorado College is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: August 17, 2009.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–23102 Filed 9–23–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on July 1, 2009, Fisher Clinical Services, Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Noroxymorphone (9668), a basic class of controlled substance listed in schedule II.

The company plans to import the listed substance for analytical research and clinical trials.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than October 26, 2009.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745), all applicants for registration to import a basic class of any controlled substance in schedule I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21 CFR 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: September 17, 2009.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E9–23066 Filed 9–23–09; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

September 18, 2009.

The Department of Labor (DOL) hereby announces the submission of the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of each ICR, with applicable supporting documentation; including among other things a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or by contacting Darrin King on 202–693–4129 (this is not a toll-free number)/e-mail: *DOL_PRA_PUBLIC@dol.gov.*

Interested parties are encouraged to send comments to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor—Employee Benefits Security Administration (EBSA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–7316/Fax:

202–395–5806 (these are not toll-free numbers), E-mail: *OIRA_submission@omb.eop.gov* within 30 days from the date of this publication in the **Federal Register**. In order to ensure the appropriate consideration, comments should reference the OMB Control Number (*see* below).

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Prohibited Transaction Class Exemptions for Multi employer Plans & Multi employer Apprenticeship Plans, PTE 76–1, PTE 77–10, PTE 78–6.

OMB Control Number: 1210–0058.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 4,230.

Total Estimated Annual Burden Hours: 1,052.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $0.

Description: PTE 76–1 permits multiemployer employee benefit plans under specific conditions to negotiate with contributing employer to accept delinquent contributions and settle delinquencies; to make construction loans to contributing employers; and to lease property and purchase services and goods from parties in interest, including contributing employers and employee associations. PTE 77–10 expands the scope of relief provided under PTE 76–1 part C, for leasing property and purchasing goods and services. PTE 78–6 provides an exemption to multiemployer apprenticeship plans for purchasing personal property or leasing real property from a contributing employer. All three exemptions impose recordkeeping requirements on plans as a condition to availability of the relief. For additional information, see related notice published at Vol. 74 FR 31978 on July 6, 2009.

Agency: Employee Benefits Security Administration.

Type of Review: Extension without change of a currently approved collection.

Title of Collection: Request to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction.

OMB Control Number: 1210–0135.

Affected Public: Individuals of households; Businesses or other for-profits; and Not-for-profit institutions.

Estimated Number of Respondents: 15,400.

Total Estimated Annual Burden Hours: 14,350.

Total Estimated Annual Costs Burden (excludes hourly wage costs): $8,000.

Description: The American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) provides for premium assistance and expanded eligibility for health benefits under the Consolidated Omnibus Budget Reconciliation Act of 1986, commonly called COBRA. This premium assistance is not paid directly to the covered employee or the qualified beneficiary, but instead is in the form of a tax credit for the health plan, the employer, or the insurer. An individual must be an ''assistance eligible individual'' to be eligible for the premium assistance. If eligible, these individuals pay only 35% of their COBRA premiums to the plan and the remaining 65% is paid through the tax credit. Eligible individuals can start getting the premium assistance as of the first day of coverage beginning on or after February 17, 2009.

If individuals request treatment as an assistance eligible individual and are denied such treatment because of their ineligibility for COBRA continuation coverage, the Secretary of Labor must make a determination within 15 business days after receipt of an individual's application for review.

The *Application to the Department of Labor for Expedited Review of Denial of COBRA Premium Reduction* (the ''Application'') is the form used by individuals to file their expedited review appeals. Such individuals must complete all information requested on the Application in order to file their review requests with the Department's Employee Benefits Security Administration (EBSA). An Application may be denied if sufficient information is not provided.

In certain situations, EBSA will have to contact plan administrators for additional information regarding an applicant's appeal of a denial of premium reduction. The ''Plan Administrator Information Sheet'' will be used for this purpose in cases where the Department has otherwise been unable to contact a plan administrator regarding a filed application. For additional information, see related notices published at Vol. 74 FR 28278 on June 15, 2009, and at Vol. 74 FR 20503 on May 4, 2009.

Darrin A. King,

Departmental Clearance Officer.

[FR Doc. E9–23011 Filed 9–23–09; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act; Notice of a Matter To Be Added to the Agenda for Consideration at an Agency Meeting

TIME AND DATE: 10 a.m., Thursday, September 24, 2009.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTER TO BE ADDED: 2a. Revisions to Temporary Corporate Credit Union Liquidity Guarantee Program.

TIME AND DATE: 11:15 a.m., Thursday, July 16, 2009.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE ADDED: 1. Consideration of Supervisory Activity. Closed pursuant to exemptions (8), (9)(A)(ii) and 9(B).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: 703–518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. E9–23223 Filed 9–22–09; 4:15 pm]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0421; IA–09–021]

In the Matter of Mr. Douglas Poling; Confirmatory Order (Effective Immediately)

I

Mr. Douglas Poling held the positions of President and Chief Executive Officer for Magna Chek, Inc. Magna Chek is the holder of Materials License No. 21–19111–02 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on May 20, 1985. The license currently authorizes Magna Chek to store radioactive sources previously used in radiography operations at its permanent radiography facility in Warren, Michigan. Mr. Poling was named as Radiation Safety Officer on the license in 2008.

This Confirmatory Order is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on August 4, 2009.

II

On May 1, 2008, the NRC conducted an onsite inspection at the Magna Chek storage location in Warren, Michigan. The purpose of the inspection was to review the corrective actions taken by Magna Chek in response to a Notice of Violation issued on December 19, 2007 (EA–09–260 and EA–09–265). As a result of the inspection observations, the NRC Office of Investigations (OI) initiated an investigation (OI Case No. 3–2008–017). Based on the evidence developed during the inspection and investigation, the NRC identified that Mr. Poling's deliberate actions caused the Magna Chek licensee to be in violation of NRC requirements. The violations are described in the Appendix to this Order.

The results of the investigation were sent to Mr. Douglas Poling in a letter dated April 1, 2009. This letter offered Mr. Poling the opportunity to either participate in ADR mediation or to attend a Predecisional Enforcement Conference. In response to the NRC's offer, Mr. Poling requested use of the NRC's ADR process to resolve the differences he had with the NRC. On May 18, 2009, the NRC and Mr. Poling agreed to mediate. On August 4, 2009, the NRC and Mr. Poling participated in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. As used by the NRC, ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This confirmatory order is issued pursuant to the agreement reached during the ADR process.

III

During the August 4, 2009, ADR session, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

1. Mr. Douglas Poling agrees to not be involved in any NRC-licensed activities for a period of five years from the date of the Order.

2. Mr. Douglas Poling agrees to provide a copy of the Order to each NRC Agreement State within which he plans to conduct activities involving radioactive materials.

3. Mr. Douglas Poling agrees to not be involved in any decisions, financial or otherwise, regarding the handling, storage, security, or disposal of the radioactive materials possessed by Magna Chek for a period of five years from the date of the Order.

4. Mr. Douglas Poling agrees that he will not access the radioactive materials possessed by Magna Chek for a period of five years from the date of the Order.

5. Mr. Douglas Poling agrees to provide all copies of the keys providing access to the radioactive material, all copies of any documents related to the radioactive material or its storage (both electronic and paper), and any other items related to the radioactive material to the Magna Chek Chief Financial Officer within one day of the date of the Order.

6. Mr. Douglas Poling agrees to step down as the Radiation Safety Officer as of the date of the Order.

7. The NRC agrees to not pursue any further enforcement action in connection with the NRC's April 1, 2009, letter to Mr. Douglas Poling. This does not prohibit the NRC from taking an enforcement action, in accordance with the NRC Enforcement Policy, if Mr. Poling commits a similar violation in the future or violates the Order.

On August 24, 2009, Mr. Douglas Poling consented to issuing this Order with the commitments, as described in Section V below. Mr. Poling further agreed that this Order is to be effective upon issuance and that he has waived his right to a hearing.

IV

Since Mr. Douglas Poling has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Order.

I find that Mr. Poling's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Poling's commitments be confirmed by this Order. Based on the above, and Mr. Poling's consent, this Order is immediately effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, *it is hereby ordered, effective immediately:*

1. Mr. Douglas Poling shall not be involved in any NRC-licensed activities for a period of five years from the date of the Order. Mr. Poling further shall notify the NRC within one week of the first time he becomes involved in NRC-licensed activities after the five years has expired.

2. Mr. Douglas Poling shall provide a copy of the Order to each NRC Agreement State should he plan to conduct activities involving radioactive materials, including serving as a Radiation Safety Officer, prior to beginning any work and extending for a period of five years from the date of the Order.

3. Mr. Douglas Poling shall not be involved in any decisions, financial or otherwise, regarding the handling, storage, security, or disposal of the radioactive materials possessed by Magna Chek for a period of five years from the date of the Order.

4. Mr. Douglas Poling shall not access the radioactive materials possessed by Magna Chek for a period of five years from the date of the Order.

5. Mr. Douglas Poling shall provide all copies of the keys providing access to the radioactive material, all copies of any documents related to the radioactive material or its storage (both electronic and paper), and any other items related to the radioactive material to either the Magna Chek Chief Financial Officer or to someone designated by the Chief Financial Officer as being trustworthy and reliable, within one day of the date of the Order.

6. Mr. Douglas Poling shall step down as the Radiation Safety Officer as of the date of the Order.

The Regional Administrator, NRC Region III, may, in writing, relax or rescind any of the above conditions

upon demonstration by Mr. Poling of good cause.

VI

Any person adversely affected by this Confirmatory Order, other than Mr. Douglas Poling, may request a hearing within 20 days of the Order's publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in the August 28, 2007, **Federal Register** (72 FR 49139). The E-Filing process requires participants to submit and serve documents over the Internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least five days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at *hearingdocket@nrc.gov*, or by calling (301) 415–1677, to request: (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at *http://www.nrc.gov/site-help/e-submittals/install-viewer.html*. Information about applying for a digital ID certificate also is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html*.

Once a requestor has obtained a digital ID certificate, had a docket created, and downloaded the EIE viewer, it can then submit a request for a hearing through EIE. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html*. A filing is considered complete at the time the filer submits its document through EIE. To be timely, electronic filings must be submitted to the EIE system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The EIE system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, any others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request is filed so that they may obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html* or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1–866–672–7640 or by e-mail at *MSHD.Resource@nrc.gov*.

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order or policy of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

If a person other than Mr. Douglas Poling requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires, if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 16th day of September 2009.

For the U.S. Nuclear Regulatory Commission.

Mark A. Satorius,

Regional Administrator, Region III.

[FR Doc. E9–23038 Filed 9–23–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0418]

Draft Regulatory Guide: Issuance, Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance and Availability of Draft Regulatory Guide, DG–6007.

FOR FURTHER INFORMATION CONTACT: Jack Foster, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *telephone:* (301) 415–6250 or e-mail to *Jack.Foster@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft guide in the agency's ''Regulatory Guide'' series. This series was developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide (DG), entitled, ''Establishing Quality Assurance Programs for the Manufacture and Distribution of Sealed Sources and Devices Containing Byproduct Material,'' is temporarily identified by its task number, DG–6007, which should be mentioned in all related correspondence. DG–6007 is a proposed Revision 1 of Regulatory Guide 6.9, dated February 1995.

This regulatory guide directs the reader to the type of quality assurance (QA) and quality control (QC) program acceptable to the staff of the NRC during the review of an application to manufacture or distribute sealed sources and devices containing byproduct materials.

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 32, ''Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material,'' regulates the manufacture and distribution of sealed sources or devices containing byproduct material. Regulations in 10 CFR 32.210(c) require the applicant or registrant to submit information about the QC program in sufficient detail to allow the NRC reviewers to ensure that the product is manufactured and distributed in a manner that is adequate to protect health and minimize danger to life and property.

This regulatory guide endorses the methods and procedures for a QA/QC program described in Section 10.7, ''Quality Assurance and Quality Control'' of NUREG–1556, Volume 3, ''Consolidated Guidance About Materials Licenses: Applications for Sealed Source and Device Evaluation and Registration,'' issued April 2004, as a process that the NRC finds acceptable. As described in Volume 3 of NUREG–1556, the applicant must provide details of the QA program that ensure that the product is manufactured and distributed in accordance with the representations made in the application and the statements contained in the registration certificate for the product.

II. Further Information

The NRC staff is soliciting comments on DG–6007. Comments may be accompanied by relevant information or supporting data and should mention DG–6007 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS).

Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. *Mail comments to:* Rulemaking and Directives Branch, Mail Stop: TWB–05–B01M, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

2. *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2009–0418]. Address questions about NRC dockets to Carol Gallagher, 301–492–3668; e-mail *Carol.Gallagher@nrc.gov*.

3. *Fax comments to:* Rulemaking and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 492–3446. Requests for technical information about DG–6007 may be directed to the NRC contact, Jack Foster at (301) 415–6250 or e-mail to *Jack.Foster@nrc.gov*.

Comments would be most helpful if received by November 21, 2009. Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of DG–6007 are available through the NRC's public Web site under Draft Regulatory Guides in the ''Regulatory Guides'' collection of the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/*. Electronic copies are also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML091670485.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4205, by fax at (301) 415–3548, and by e-mail to *pdr.resource@nrc.gov*.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

Dated at Rockville, Maryland, this 17th day of September 2009.

For the Nuclear Regulatory Commission.

Andrea D. Valentin,

Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E9–23041 Filed 9–23–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0410; Docket No. 030–35904]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 29–30707–01, for Termination of the License and Unrestricted Release of the Memory Pharmaceuticals Corporation Facility Located in Montvale, NJ

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania; telephone 610–337–5366; fax number 610–337–5269 or by e-mail: *dennis.lawyer@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 29–30707–01. This license is held by Memory Pharmaceuticals Corporation (the Licensee) for its facility located at 100 Philips Parkway in Montvale, New Jersey (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use and termination of the NRC license. The

Licensee requested this action in a letter dated June 25, 2009. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, *Code of Federal Regulations* (CFR), part 51 (10 CFR part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's June 25, 2009 license amendment request, resulting in release of the Facility for unrestricted use and the termination of its NRC materials license. The license for this facility was originally issued, pursuant to 10 CFR part 30, to Memory Pharmaceuticals Corporation on May 15, 2000. At that time, the corporate mailing address for Memory Pharmaceuticals Corporation was located in the State of New York so License No. 31–30570–01 was assigned. On January 7, 2002, License No. 31–30570–01 was terminated and replaced with License No. 29–30707–01 following the licensee's change of mailing address to a location in the State of New Jersey. License No. 29–30707–01 has been amended periodically since that time. The License authorized the licensee to use byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods.

The Facility occupies 53,362 square feet of space within a 74,000 square foot complex and consists of office, storage, and laboratory space. The Facility is located in a commercial area. Within the Facility, use of licensed materials was confined to 4,605 square feet of space.

During April 2008, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR part 20 for unrestricted release and for license termination.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks the unrestricted use of its Facility and the termination of its NRC materials license. Termination of its license would end the Licensee's obligation to pay annual license fees to the NRC.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: Hydrogen-3 and carbon-14. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted final status surveys during April–July 2009. The final status survey report was attached to the Licensee's amendment request dated June 25, 2009, as supplemented by additional information letters dated July 10 and 14, 2009. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in subpart E of 10 CFR part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385. The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use and the termination of the NRC materials license is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release and for license termination. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the New

Jersey Department of Environmental Protection for review on June 25, 2009. On August 11, 2009, the New Jersey Department of Environmental Protection responded by letter. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance'';
2. Title 10, *Code of Federal Regulations,* part 20, subpart E, ''Radiological Criteria for License Termination'';
3. Title 10, *Code of Federal Regulations,* part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions'';
4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'';
5. Memory Pharmaceuticals Corporation Termination Request Letter dated June 25, 2009 [ML091950247];
6. Memory Pharmaceuticals Corporation Additional Information Letter dated July 10, 2009 [ML091950568]; and
7. Memory Pharmaceuticals Corporation Additional Information Letter dated July 14, 2009 [ML091970047].

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *PDR.Resource@nrc.gov.* These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region I, 475 Allendale Road, King of Prussia, PA this 17th day of September 2009.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region I.

[FR Doc. E9–23040 Filed 9–23–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–04192; NRC–2009–0420]

Notice of Environmental Assessment Related to the Issuance of a License Amendment to Byproduct Material License No. 12–10243–01, for Unrestricted Use of Environmental Protection Agency Facilities in Chicago, IL

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Termination.

FOR FURTHER INFORMATION CONTACT: Katie Streit, Health Physicist, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials and Safety, Region III, U.S. Nuclear Regulatory Commission, 2443 Warrenville Road, Lisle, Illinois 60532; Telephone: (630) 829–9621; fax number: (630) 515–1259; or by e-mail at *Katherine.Streit@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an amendment to terminate NRC Byproduct materials License No. 12–10243–01, which is held by the U.S. Environmental Protection Agency (licensee). The issuance of the amendment would authorize the unrestricted use of the licensee's laboratory facilities located at 536 South Clark Street, Chicago, Illinois, and similar facilities onboard the Research Vessel (R.V.) Lake Guardian (collectively, the Facilities).

The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the licensee's amendment request dated October 9, 2008 (ML082890377), and approve release of the Facilities for unrestricted use in accordance with 10 CFR Part 20, Subpart E. License No. 12–10243–01 was issued on August 20, 1964, pursuant to 10 CFR Part 30, and has been amended periodically since that time. The licensee used unsealed Carbon-14 for primary productivity analyses in laboratories located on the seventh and tenth floor of 536 South Clark Street, Chicago, Illinois from November 1977. Unsealed Carbon-14 was also used onboard the R.V. Lake Guardian from August 1992. Nickel-63 sealed sources were used for gas chromatography at the 536 South Clark Street laboratories. Other authorized locations for use of licensed materials under License No. 12–10243–01 were released for unrestricted use pursuant to previous license amendments. The licensee ceased licensed activities in the mid-1990s and disposed of all material licensed under License No. 12.10243–01 by 2005, and has thus requested that its license be terminated.

Based on the licensee's historical knowledge of the site and the conditions of the Facilities, the licensee determined that only routine decontamination activities, in accordance with its NRC approved, operating radiation safety procedures, were required. The licensee was not required to submit a decommissioning plan to NRC because worker cleanup activities and surveys are consistent with those approved for routine operations. The licensee submitted a Historical Site Assessment and Final Status survey report to the

NRC on July 8, 2009 (ML091940165) which demonstrated that the Facilities meet the criteria in Subpart E of 10 CFR Part 20 for unrestricted use.

Need for the Proposed Action

The licensee has ceased conducting licensed activities at the Facilities and seeks their unrestricted use.

Environmental Impacts of the Proposed Actions

The historical review of the licensed research activities conducted at the Facilities indicates that Carbon-14 was the only radionuclide used that had a half-life greater than 120 days in unsealed form. The historical review also indicates that Nickel-63 sealed sources were possessed under the license at the Facilities.

The NRC evaluated the licensee's compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated Decommissioning Guidance,'' Volume 1. The NRC NUREG specifies radionuclide-specific Derived Concentration Guideline Levels (DCGLs), developed by the NRC, which comply with the dose criterion in 10 CFR 20.1402. The DCGLs define the maximum amount of residual radioactivity on surfaces that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted use. The Licensee's final status survey results were well below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facilities. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facilities. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area surrounding the Facilities that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facilities for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity from the Facilities and concluded that the proposed action will not have a significant effect on the quality of the environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d) requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the licensee's final status survey data confirmed that the Facilities meet the requirements of 10 CFR 20.1402 for unrestricted use. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Illinois Emergency Management Agency (IEMA) for review on August 21, 2009. On August 28, 2009, IEMA responded that it had no comments.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted use criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's image files of NRC's public documents. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.* The documents related to this action are listed below, along with their ADAMS accession numbers.

1. Environmental Protection Agency Responses to September 30, 2008 Requests for Additional Information, dated October 9, 2008 (ADAMS Accession No. ML082890377).

2. Trip Report for March 6, 2009 License Termination Final Status Survey Meeting and Site Tour, dated April 3, 2009 (ADAMS Accession No. ML090930490).

3. Cover Letter to Issuance of U.S. EPA License 12–10243–01 Amendment Number 27, dated September 30, 2008 (ADAMS Accession No. ML082840095).

4. EPA Responses to Request for Additional Information from March 6, 2009 NRC Site Tour, dated July 8, 2009 (ADAMS Accession No. ML091940165).

5. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination.''

6. Title 10 Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic licensing and Related Regulatory Function.''

7. NUREG–1757, Consolidated Decommissioning Guidance, Volume 1.

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O1F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Lisle, Illinois, this 16th day of September 2009.

For the Nuclear Regulatory Commission,

Christine A. Lipa,

Branch Chief, Materials Control, ISFSI, and Decommissioning Branch, Division of Nuclear Materials Safety, Region III.

[FR Doc. E9–23039 Filed 9–23–09; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Federal Salary Council will meet on October 19, 2009, at the time and location shown below. The Council is an advisory body composed of representatives of Federal employee organizations and experts in the fields of labor relations and pay policy. The Council makes recommendations to the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) about the locality pay program for General Schedule employees under section 5304 of title 5, United States Code. The Council's recommendations cover the establishment or modification of locality pay areas, the coverage of salary surveys, the process of comparing Federal and non-Federal rates of pay, and the level of comparability payments that should be paid.

At the October 19 meeting, the Council will hear requests for changes in locality pay areas, review the results of pay comparisons and formulate its recommendations to the President's Pay Agent on pay comparison methods, locality pay rates, and locality pay area boundaries for 2011. The meeting is open to the public. Please contact the Office of Personnel Management at the address shown below if you wish to submit testimony or present material to the Council at the meeting.

DATES: October 19, 2009, at 10 a.m.

Location: Office of Personnel Management, 1900 E Street, NW., Room 1350, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Office of Personnel Management, 1900 E Street, NW., Room 7H31, Washington, DC 20415–8200. Phone (202) 606–2838; FAX (202) 606–4264; or e-mail at *pay-performance-policy@opm.gov*.

For the President's Pay Agent.

John Berry,

Director.

[FR Doc. E9–23007 Filed 9–23–09; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket No. R2009–5; Order No. 299]

Postal Service Incentive Pricing Program

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Postal Service has prepared, and the Commission has approved, a special program offering reduced rates on certain presorted First-Class Mail. This document addresses related issues and provides pertinent details.

DATES: Effective September 24, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6820 and *stephen.sharfman@prc.gov*.

SUPPLEMENTARY INFORMATION: *Regulatory History,* 74 FR 41947 (August 19, 2009).

I. Introduction

A. Overview

The Postal Service proposes to offer eligible companies a 20 percent postage rebate on qualifying presorted First-Class letter, flat, and card volumes mailed between October 1, 2009 and December 31, 2009.[1] Under the proposal, which the Postal Service calls the First-Class Mail Incentive Program (Incentive Program), qualifying volume is defined as a single company's First-Class Mail volume over and above a predetermined threshold. Notice at 3. For reasons discussed below, the Commission approves the Incentive Program.

The Incentive Program is designed as ''a short-term incentive to use the mail and stabilize or grow'' presorted First-Class Mail volume in response to the current economic downturn and declining mail volumes. *Id.* The Postal Service estimates that the Incentive Program will generate additional revenue of $43 million with a net contribution of about $24 million. *Id.* at 7.

The Commission recognizes the serious circumstances giving rise to this proposal and finds it to be a worthwhile effort to generate new volumes of First-Class Mail, the Postal Service's flagship product. The Postal Service cites the Incentive Program as ''an example of the increased flexibility provided to the Postal Service under the [PAEA].'' *Id.* at 10. The Commission agrees.

The Commission must comment however, that the Postal Service's filing, including its responses to Chairman Information Requests, unnecessarily delayed this decision.[2] For example, the Postal Service initially failed to provide basic information needed to verify its volume and revenue projections, and it provided an imprecise and thereby confusing description of program eligibility, questionable volume assumptions, and a less-than-complete risk analysis. These problems hampered prompt Commission review.

The revamped ratemaking process mandated by the PAEA assigns complementary roles to the Postal Service and the Commission. The Postal Service's pricing flexibility with its attendant shortened review period requires that pricing adjustment filings be fully documented at submission and supported throughout the course of review to permit the Commission to analyze such filings adequately during the accelerated review periods. The failure to provide full documentation at the outset compromises the Commission's ability to thoroughly and expeditiously evaluate proposals.

The Commission's rules implementing 39 U.S.C. 3622 require filings to be fully supported. Moreover, the Commission has too frequently had to reiterate the need for Postal Service pricing proposals to be adequately supported and to adhere to accepted analytical principles. While not disqualifying in this instance, the Commission finds it necessary to underscore that future pricing adjustment filings must be fully supported and documented to enable the Commission to adequately assess their merits in timely fashion. Otherwise, the Commission will be obliged to defer action on such proposals pending the development of a more complete record.[3]

[1] United States Postal Service Notice of Market-Dominant Price Adjustment, August 11, 2009 (Notice) and Notice of United States Postal Service of Filing Supplemental Information, August 14, 2009 (Supplemental Notice). The latter provides a spreadsheet with additional data on the Incentive Program's financial impact. The Postal Service published implementing regulations in the **Federal Register** on September 2, 2009. *See* 74 FR 45325 (September 2, 2009).

[2] The Notice was filed pursuant to 39 U.S.C. 3622, as amended by the Postal Accountability and Enhancement Act (PAEA) of 2006, and 39 CFR part 3010, the Commission's regulations governing market dominant price adjustments.

[3] As discussed below, the Postal Service's responses to Chairman's Information Requests, including its last, late response filed September 10, 2009, were deficient in several respects and hindered the Commission's ability to evaluate the Incentive Program fully. Although still within the statutory deadline, this order was delayed, and issued two days later than planned.

B. Procedural History

The Postal Service filed a Notice announcing the Incentive Program with the Commission on August 11, 2009. As supplemented, it describes basic aspects of the Incentive Program, discusses compliance with the price cap, assesses consistency with the objectives and factors of § 3622, and provides the Postal Service's perspective of the impact on workshare discounts and preferred rates. Proposed Mail Classification Schedule language and a schedule of new prices appear in Appendix A.

In Order No. 276, the Commission provided public notice of the filing, established Docket No. R2009–5 to consider matters raised therein, appointed a public representative pursuant to rule 3010.13(a)(4), and set August 31, 2009 as the deadline for submission of comments.[4]

The Chairman issued three Information Requests.[5] The Information Requests, to which the Postal Service responded, pursued theoretical and technical aspects of the Postal Service's risk analysis.[6]

Parcel Shippers Association, Pitney Bowes Inc., and the Public Representatives filed formal comments.[7] Several persons filed informal comments through the Commission's Office of Public Affairs.

II. Description of the Incentive Program

The Incentive Program gives eligible participants a 20 percent postage rebate on qualifying presort First-Class letters, flats, and cards mailed between October 1, 2009 and December 31, 2009. Notice at 1. Qualifying volume is defined as a single company's First-Class Mail volume over a predetermined threshold. *Id.* at 3. To be eligible to participate in the Incentive Program, a company must have mailed 500,000 or more non-parcel presorted First-Class Mail pieces between October 1 and December 31 in both 2007 and 2008 through company-owned permit accounts or through permits set up on the company's behalf by a Mail Service Provider (MSP). *Id.* Participants must then exceed a company-specific threshold during October 1, 2009 through December 31, 2009 to qualify for the incentive rebate.[8] The incremental volume mailed by an eligible, participating company above the calculated threshold will earn a 20 percent rebate.

Rebate calculation; credit. The rebate will be calculated as 20 percent of the average revenue per piece for all eligible mail volume during the program period multiplied by the incremental volume above the threshold during the program period. It will be credited to the company's permit trust account. *Id.*

Incentive Program intent. The stated intent of the Incentive Program is to provide an incentive for customers to increase non-parcel First-Class Mail presorted volume above the volume they otherwise would have sent. To protect this core element of the Incentive Program, the Postal Service includes provisions to address the possibility of strategic shifting or withholding of volume. *Id.* at 4.

Incentive Program administration. The Notice addresses several aspects of program administration, including methods for contacting eligible mailers; procedures for establishing company thresholds and crediting rebates to permit trust accounts; data collection and reporting (including filing some data under seal); financial impact; and risk. *See generally id.* at 4–8. Importantly, further clarification was provided when implementing regulations were published in the **Federal Register.** 74 FR 45325 (September 2, 2009). The implementing regulations further describe the process the Postal Service will follow to notify potential participants, how mailers who are not contacted can apply, and provide details on development of both of the volume threshold requirements. They also clarify that metered mail will be eligible and that some customers of MSPs can participate. *See* Pitney Bowes Comments at 4.

Under the Postal Service's proposed data collection plan, the Postal Service would submit Incentive Program-related data to the Commission 90 days after the payment of incentive rebates. The Notice describes specific components of the plan, notes that some participant data will be filed under seal, and states that actual administrative costs will be identified. *Id.* at 6.

With respect to the financial aspects of the Incentive Program, the Postal Service expects, based on the 20 percent rebate and the expressed interest of customers, a contribution increase of around $24 million and a revenue increase, net of the 20 percent rebate, of $43 million. It anticipates new volume of about 103 million pieces, which it says will generate about $31 million in additional revenue and $16 million in contribution. It also expects about 103 million pieces to ''buy up'' from Standard Mail, providing an additional $12 million in revenue and $8 million in contribution. *Id.* at 7. Administrative costs are expected to total $809,000, and to be easily covered by the contribution generated from additional volume. *Id.*

The Postal Service's primary measure of success will be incremental revenue and volume growth over the threshold for participating customers, but qualitative aspects, such as the Postal Service's ability to efficiently and effectively administer the program and customer feedback, also will be monitored. *Id.* at 5–6.

III. Comments

In separate filings, PSA, Pitney Bowes and the Public Representatives advocate Commission approval of the Incentive Program; commend the Postal Service for exercising its § 3622 authority in developing the Incentive Program; and note that the Incentive Program may provide experience to build on in the future. *See generally* PSA Comments at 1; Pitney Bowes Comments at 1–2; and Public Representatives' Comments at 4.

PSA does not condition its approval on further clarifications or additional information, but reiterates a concern it raised in the Summer Sale over the lack of lead time, given the planning time needed to produce mailings.[9] PSA Comments at 1. However, Pitney Bowes' and the Public Representatives' support is qualified, conditioned on either clarifications or submission of additional explanation, data and information. Pitney Bowes Comments at

[4] PRC Order No. 276, Notice and Order Concerning Incentive Pricing Program for Certain Presorted First-Class Mail, August 13, 2009. 74 FR 41947 (August 19, 2009) (Order No. 276).

[5] Chairman's Information Request No. 1, August 14, 2009 (CHIR No. 1); Chairman's Information Request No. 2, August 27, 2009 (CHIR No. 2); and Chairman's Information Request No. 3, September 4, 2009 (CHIR No. 3).

[6] Responses of the United States Postal Service to Chairman's Information Request No. 1, August 21, 2009 (Response to CHIR No. 1); Responses of the United States Postal Service to Chairman's Information Request No. 2, September 2, 2009 (Responses to CHIR No. 2); Response of the United States Postal Service to Chairman's Information Request No. 3, Question 2 (September 9, 2009) (Response to CHIR No. 3, Question 2); Response of the United States Postal Service to Chairman's Information Request No. 3, Question 1, September 10, 2009 (Response to CHIR No. 3, Question 1); and Motion of the United States Postal Service for Late Acceptance of Response to Chairman's Information Request No. 3, Question 1, September 10, 2009.

[7] Comments of the Parcel Shippers Association (PSA Comments); Comments of Pitney Bowes Inc. (Pitney Bowes Comments); and Comments of the Public Representatives (Public Representatives' Comments), all filed August 31, 2009.

[8] This threshold is determined by computing the ratio of the October 1–December 31, 2008 non-parcel First-Class Mail presorted volume to the October 1–December 31, 2007 non-parcel First-Class Mail presorted volume. The result is then multiplied by the company's October 1–December 31, 2008 non-parcel First-Class Mail presorted volume. *Id.*

[9] *See* Docket No. R2009–3, Notice of Price Adjustment (Summer Sale).

1 and 4; Public Representatives' Comments at 12.

Pitney Bowes seeks two clarifications, which it considers important in terms of allaying confusion and ensuring that all eligible mailers take advantage of the program. One would make it clear that metered mail counts toward satisfying the initial volume eligibility threshold and as qualifying volume during the sale period. The other would make it clear that metered mailings are also eligible for the rebate. Pitney Bowes Comments at 4. Apart from this, Pitney Bowes says it plans to encourage customers to participate, and plans to provide assistance in validating the volume data required for program participation. *Id.* at 3. It also expresses interest in working with the Postal Service on developing additional incentive programs, including ones in which MSPs can directly participate, to increase the use and value of mail and improve the future profitability of the Postal Service. *Id.*

The Public Representatives affirmatively support many aspects of the Incentive Program, but seek some additional clarification, explanation and data (before issuance of the Commission's order) and a more robust data collection plan. The material requested before approval consists of:

(1) Clarification of an alleged inconsistency (in the Postal Service's discussion of protection against migration) between statements in this case and in the Summer Sale with respect to cross-elasticities;

(2) An explanation for the choice of different periods to determine volume thresholds for this Incentive Program and the Summer Sale; and

(3) Information and data required in the rules for negotiated service agreement (NSA) filings, based on Postal Service references to ''NSA treatment'' for certain matters in this case.

Public Representatives' Comments at 4–6 and 9.

The Public Representatives also urge the Commission to require the Postal Service's final report to include, in addition to what the Postal Service offers to provide:

(1) An analysis that permits the analysis described in PRC Op. MC2004–3 [10] (Bank One Reconsideration) and later cases;

(2) A narrative explanation of problems experienced with implementation of the Incentive Program;

(3) Identification of any necessary or desirable improvements to Postal Service data systems identified as a result of implementing the Incentive Program;

(4) A summary of customer expressions of satisfaction or dissatisfaction with the Incentive Program;

(5) A discussion of any generic weaknesses with, or strengths associated with, the Incentive Program concept; and

(6) Identification or discussion of any other information gained from the Incentive Program the Postal Service deems relevant or pertinent. *Id.* at 9–11.

IV. Commission Analysis

Preliminary consideration: type of classification. It has been asserted that the Postal Service should be required to meet filing and reporting requirements for NSAs because, among other things, it has invoked the treatment accorded NSAs for purposes of assessing price cap compliance in this case. *Id.* at 8–9. While elements of the Incentive Program may have characteristics in common with an NSA, which is a type of ''special classification'' referred to in 39 U.S.C. 3622(c)(10), the facts on this record support viewing it as a generic special classification under this section, as it is available ''on public and reasonable terms to similarly situated mailers.'' In this sense, it is more closely analogous to a ''niche classification'' under the Postal Reorganization Act of 1970 than to an NSA.

Impact on the price cap. The Postal Service proposes that for purposes of assessing price cap compliance in this case, the Incentive Program be treated as mathematically analogous to negotiated service agreements in rule 3010.24, as occurred in Docket No. R2009–3, the Summer Sale. Notice at 8. Accordingly, it does not intend to include calculation of the effect of the price decrease resulting from the Incentive Program on the price cap for both future and current prices, and therefore, it did not calculate the cap or price changes described in rule 3010.14(b)(1) through (4). *Id.* No opposition has been raised on this record to using the Postal Service's proposed approach.

As the Postal Service correctly notes, the question of whether a rate decrease should affect the cap calculation and unused rate adjustment authority arose in the recent Summer Sale docket. The Commission again finds it appropriate to accept the Postal Service's approach to price cap compliance, given the Incentive Program's short duration and uncertainty over the amount of new volume that will be generated.

Assessment of consistency with statutory objectives and factors. The Notice provides, in compliance with Commission rules, the Postal Service's assessment of how the Incentive Program helps achieve the objectives of 39 U.S.C. 3622(b) and properly takes into account the factors of 39 U.S.C. 3622(c).[11] *Id.* at 8–13. With respect to section 3622(b) objectives, the Postal Service asserts that the Incentive Program either does not substantially alter the degree to which First-Class Mail prices already address these objectives, or the objectives are addressed by the design of the system itself (Objectives 1, 2, 3, 6, 7, 8 and 9). *Id.* at 10. It says the Incentive Program is an example of the increased flexibility provided to the Postal Service by the PAEA (Objective 4). It also says that the objective of ensuring adequate revenues to maintain financial stability (Objective 5) would be furthered by the Incentive Program's increase in mail volumes and its support for a key customer segment. *Id.*

With respect to § 3622(c), the Postal Service says the Incentive Program does not substantially alter the degree to which First-Class Mail prices address most of the factors (Factors 1, 4, 5, 6, 8, 9, 10, 11, 12, 13, and 14). *Id.* at 10. Pursuant to § 3622(c)(10), a special classification's consistency with the statute is to be evaluated in terms of whether it improves the net financial position of the Postal Service through increasing overall contribution to the institutional costs, and does not cause unreasonable harm to the marketplace. 39 U.S.C. 3622(c)(10)(A)(i) and (B). The Commission finds that there is a reasonable likelihood that the Incentive Program will meet both prongs of this test. It also concludes that the Postal Service's references to NSA-style treatment for some aspects of reviewing this Incentive Program do not trigger application of NSA reporting and filing requirements.

As to other factors, the Postal Service asserts that the Incentive Program addresses Factor 3 (effect on business mail users) by providing assistance to a key customer segment during the severe economic downturn; and that the Incentive Program will not affect the ability of First-Class Mail to cover attributable costs. *Id.* at 12–13. It adds that the Incentive Program is ''a prime example of how the Postal Service can utilize the pricing flexibility provided under the PAEA in order to encourage increased mail volume.'' *Id.* at 12. It maintains that the Incentive Program will help to counteract the effect of the current recession on business mailers,

[10] The Public Representatives cite the analysis that appears at PRC Op. MC2004–3, paras. 5001–38.

[11] *See* Commission rules 3010.14(b)(5) through 3010.14(b)(8).

and provide a boost to a key customer segment. It also says that although the rebates are material, the Incentive Program will not affect the ability of First-Class Mail to cover its attributable costs (Factor 2), and that as a result of the Incentive Program, First-Class Mail as a whole will make an increased contribution toward overhead costs (Factor 10). *Id.* at 12–13.

The Commission accepts the Postal Service's reasoning with respect to the statutory objectives and factors, and finds the Incentive Program consistent with those that are applicable.

Workshare discounts. The Postal Service states that to the extent the Incentive Program affects discounts between presort categories, it will shrink them, but asserts that the Incentive Program itself is not worksharing, nor should its effects be considered a modification of, or change to, First-Class Mail worksharing discounts. *Id.* at 13. It asserts that the Incentive Program is a temporary incentive intended to drive additional First-Class Mail presort volume and, as such, is not tied to any specific mail preparation or induction practice. *Id.* It suggests that the discounts, in this sense, are similar to the incremental discounts the Commission has approved in a number of negotiated service agreements or the Intelligent Mail barcode discount that will take effect in the fall. *Id.*

The worksharing issue is the subject of a pending docket, RM2009–3. For purposes of this case, the Commission finds that the rebates, given the brief duration of the program, could have only a *de minimis* impact. Thus, it finds that the Incentive Program is not inconsistent with § 3622(e) requirements.

Preferred rates. The Commission agrees with the Postal Service's assertion that the Incentive Program will have no impact on any preferred rates.

Financial impact. The Postal Service estimates that the Incentive Program will increase revenues by approximately $43 million, and increase contribution by about $24 million. It also expects to incur $809,000 in administrative expenses related to the Incentive Program. *Id.* at 7.

In response to CHIR No. 1, the Postal Service explains that its estimates are based on an assumed 2 percent increase in eligible mail volume in response to the discount, split evenly between new First-Class Mail (own-price response) and volume shifted from Standard Mail to First-Class Mail (cross-price response). These assumptions are based on conversations with mailers and inferences from Summer Sale data. The response also indicates that the projected own-price volume response is distributed among letters, flats, and cards based on the FY 2008 First-Class Mail presort volumes for those shapes, and that the cross-price response is similarly distributed, except that cards are excluded from the distribution key. Response to CHIR No. 1, Question 1.a.

The Postal Service provides the aggregate volumes used to establish eligible mailers' volume trends and discount thresholds in response to CHIR No. 3, Question 1.[12] The spreadsheet attached to the response shows the share of total First-Class Mail presort sent by eligible mailers (91 percent), the trend in eligible mailers' volumes from fall 2007 to fall 2008 (a 7.1 percent decline), and the key used to distribute the own-price volume response to letters, flats, and cards. Response to CHIR No. 3, Question 1.

The Commission finds the Postal Service's estimates deficient in several ways. The initial filing and responses did not present the calculations and assumptions needed to verify the results asserted by the Postal Service. It was only in response to the third information request that the basic data needed for this task was provided, and upon review of that data, questions remain.

One concern relates to the source of the volumes sent by eligible mailers, identified as the Corporate Business Customer Information System (CBCIS). Previously, the Postal Service indicated that 40 percent of presorted First-Class Mail volume captured in the CBCIS is comprised of volume from MSPs and, therefore, could not be identified with a particular mail owner. Response to CHIR No. 2, Question 1.a. It is not clear how the Postal Service is able to determine how much of that mail was sent by eligible mailers if it has not determined by whom it was sent.

The key used to distribute the forecast volume response between letters, flats, and cards also raises questions. The Postal Service indicates that the key is the distribution of FY 2008 presorted First-Class Mail volumes. Using volume figures from the FY 2008 Revenue, Pieces, and Weight (RPW) report, the Commission calculates a distribution that is substantially different. For example, RPW data indicate that presort flats are about 1.5 percent of total presort letters, flats, and cards, and not 7.6 percent as in the key used by the Postal Service. This discrepancy manifests in the Postal Service's FY 2010 first quarter (before-rates) eligible flats volume forecast of 779 million pieces. This represents a 477 percent increase over the same period in FY 2009 (135 million pieces).

The distortion caused by this distribution key is compounded by the treatment of the volume projected to shift from Standard Mail (cross-price response). Instead of distributing this volume on a key that excludes cards, the Postal Service divides the volume that its key would distribute to cards evenly between letters and flats.

Another problem in the Postal Service's forecast lies in its use of an assumed total volume response to the Incentive Program of 2 percent, evenly divided between own-price and cross-price response. This assumption is based solely on conversations with mailers rather than available empirical information about the price sensitivity of presorted First-Class Mail. The Postal Service asserts that the available estimated price elasticities cannot be applied to the Incentive Program discounts because they apply only to marginal volume. It believes that the volume response implied by the elasticities should only be applied to the marginal volume, which is unknown beforehand. Response to CHIR No. 1, Question 1.b.

This theoretical question was thoroughly explored in the first case before the Commission involving marginal discounts as an incentive for increased volume. In support of the joint Postal Service/Capital One proposal, Capital One witness Elliott estimated the volume response by applying available elasticities to the marginal discounts in the same manner as if the price change was for the entire volume. When questioned about the use of total volume, he defended his approach by explaining that ''it is essential to understand that the resulting price elasticities are estimates about *marginal* changes in behavior. The importance of examining the behavior of economic decision makers at the margin is one of the basic insights of modern microeconomics.'' [13] He further explained that a marginal discount ''allows the Postal Service to provide the same marginal incentive for volume growth as with a single-price discount on all mail, while requiring that the discount be paid on only part of that mail.'' *See* Docket No. MC2002–2, Tr. 2/223–24. (Emphasis in original.)

[12] The Postal Service's forecast assumes that the thresholds are equal to the volume that would have been sent absent the Incentive Program (before-rates volumes).

[13] *See* Docket No. MC2002–2, Experimental Changes to Implement Capital One NSA, Direct Testimony of Stuart Elliott on Behalf of Capital One Services, Inc., September 19, 2002.

In the same case, the method of applying elasticities to total volume for marginal price changes was adopted in the testimony of Postal Service witness Eakin.[14] The Commission accepted this Postal Service analysis.

The Commission has continued to use the elasticity-based approach to estimating the response to marginal pricing incentives. *See* Opinions and Recommended Decisions, Docket Nos. MC2002–2, MC2004–3, MC2004–4, MC2005–2, MC2005–3, MC2007–4, MC2007–5 and R2009–3; *see also* NSA sections of ACD2007 and ACD2008.[15] This basic method is an accepted analytical principle described in Order No. 104 as ''the analytical principle that the financial impact of price incentives to increase mail volume or shift mail volume between products should be based on the Postal Service's best estimate of the price elasticity of the discounted product.''[16]

The First-Class Mail presort letter price elasticities[17] most relevant to evaluating the likely effects of the Incentive Program are the current own-price elasticity (which measures the change in volume in response to a change in the price, without the lag effects of quarters subsequent to the price change) and the Standard Mail discount elasticity (which measures the change in volume in response to a change in the difference between the price of First-Class Mail presort letters and Standard Regular letters). The values of these are −0.025 and −0.079, respectively. *See* United States Postal Service FY 2008 Demand Analysis Materials Market Dominant, January 16, 2009. These elasticities are not estimated specifically for the eligible mailers or other unique aspects of the price change embodied in the Incentive Program. However, the Postal Service estimates that more than 90 percent of presorted First-Class Mail (non-parcels) is sent by eligible mailers, making it a very large subset of the mail reflected in the elasticity. Using an empirically derived price elasticity to estimate the response to a price change is superior to anecdotal information gleaned from conversations with individuals.

The low current own-price elasticity suggests that the Incentive Program is unlikely to generate a substantial volume of new mail. This is especially true in light of the low (−0.365) t-statistic of the coefficient.[18] *Id.* The discount elasticity and the relatively large percentage change in the difference between First-Class Mail presort rates and Standard Regular Mail rates for eligible mailers suggest that there is likely to be a meaningful shift of Standard Regular Mail letters to First-Class Mail presort letters. The Postal Service will benefit significantly from this response where eligible mailers' thresholds are set low enough to be achievable and high enough to avoid excessive discounts on mail that would have been sent even in the absence of the agreement.

Risk assessment. The Postal Service identifies two sources of potential risk: The possibility for a smaller than expected volume response to the Incentive Program discounts and that administrative costs could be higher than anticipated. Notice at 7–8.

When asked about the risk of revenue leakage on discounts paid on mail that would have been sent regardless of the Incentive Program discounts, the Postal Service replied that it had not formally analyzed the risk. It stated that the risk was mitigated by the use of a mailer-specific volume trend to set each mailer's threshold and by targeting mail owners, rather than MSPs. Response to CHIR No. 1, Question 2.

The risk of revenue leakage due to a threshold that is below the volume that would have been sent absent the Incentive Program is of concern. Post hoc analysis of data from NSAs suggests that the difficulty of accurately forecasting before-rates volumes has prevented the volume incentive provisions of NSAs from achieving their full potential. In some cases, significant revenue leakage has occurred, while in others, mailers' volumes have fallen far short of their discount thresholds. *See* ACD2008 at 83–84.

The use of each mailer's individual volume trend in setting the thresholds is likely to reduce the risks, as compared with other methods such as applying an average trend to all mailers or assuming no change from the previous year. The adjustment for shortfalls in mailers' September and January volumes also should provide some protection against volume shifting by participants. Nevertheless, no forecasting method is flawless, and given the relatively low sensitivity of presorted First-Class Mail volume to price changes, and its relatively higher sensitivity to non-price variables (*e.g.,* employment), the potential for the Incentive Program to fall short of expectations due to threshold-related risks is real. The success of the program cannot be measured simply by assuming that all volume above the thresholds is increased volume attributable to the discount, as the Postal Service proposes. Notice at 5.

An additional source of risk is the potential for discounts to be paid on mail that has merely been shifted from one permit to another. The most likely way for this to occur is if the mail owner is not properly identified for each time period used to determine thresholds and discounts. Therefore, it is important to properly identify all mail volumes for each participating mailer, including volumes sent through MSPs. The recent spate of mergers and/or acquisitions in the financial industry are an example of the challenges in identifying all mail owned by participating mailers. The Postal Service plans to identify all of the use of MSPs and mergers by participants. *See id.,* and Response to CHIR No. 2, Question 2.

The Commission's prescribed data collection plan is intended to monitor these risks and generate information that will inform the risk analysis and risk mitigation mechanisms of future proposals of a similar nature.

Conclusion. The Commission is unable to confirm the Postal Service's estimated financial impact, in part, due to the lack of information until very late in the proceeding and the remaining issues with the Postal Service's estimate, which are described above. However, available data suggest that Postal Service contribution will be increased by the migration of Standard Regular Mail to presorted First-Class Mail. The amount of offsetting revenue leakage in the form of discounts paid for presorted First-Class Mail that would have been sent regardless of the Incentive Program is an empirical matter that cannot be forecast with the available information. The data collection plan, described below, will provide information which will enable a more complete post hoc analysis of the financial effects of the Incentive Program. The results of the analysis will

[14] *See id.,* Rebuttal Testimony of B. Kelly Eakin on Behalf of United States Postal Service, February 25, 2003.

[15] *See* Docket No. ACR2007, FY 2007 Postal Regulatory Commission Annual Compliance Determination, United States Postal Service Performance FY2007, March 27, 2008 (ACD2007); and Docket No. ACR2008, FY 2008 Annual Compliance Determination, March 30, 2009 (ACD2008).

[16] *See* Docket No. RM2008–4, Notice of Proposed Rulemaking Prescribing Form and Content of Periodic Reports, August 22, 2008, at 9 (Order No. 104). The order further explains that ''with the appropriate justification and explanation, reasonable proxies may be used for [elasticities] and other mailer-specific traits.'' *Id.*

[17] The Postal Service's price elasticity estimates are developed for four categories of First-Class Mail: Single-piece Letters and Sealed Parcels, Presort Letters and Sealed Parcels, Single-piece Cards, and Presort Cards.

[18] The t-statistic indicates that the own-price volume response may not be significantly different from zero. This contrasts with the t-statistic of the Standard Regular Mail discount elasticity (−1.885), which indicates that the coefficient is, statistically speaking, significantly different from zero.

inform the design and risk analysis of future volume incentives, thereby increasing their benefits and reducing their risks. In future proposals of this nature, the Commission expects the Postal Service to apply accepted analytical principles and fully present all calculations, document all inputs, and explain all assumptions in the initial filing.

Data collection. The data collection plan for the Incentive Program established by the Commission balances the need to avoid imposing excessive regulatory burden on the Postal Service with the need for the Commission and the public to have sufficient information to perform the effective regulatory oversight contemplated by the PAEA. The data provision requirements established herein should not impose any burden on mailers taking advantage of the Incentive Program.

The Postal Service proposes to file the following data 90 days after the payment of rebates to qualifying mailers. Notice at 6.

1. For each eligible mailer, monthly volume and revenue figures for First-Class Mail letters by product, flats by product, and cards by product for the months of September 2007 to January 2008, September 2008 to January 2009, and September 2009 to January 2010; [19]

2. Information on rebates paid, with supporting calculations;

3. For each eligible mailer, monthly permit volumes for Standard Mail letters and flats; [20]

4. The monthly information identified in paragraph 1 above, on an aggregated basis; and

5. The actual administrative costs of the Incentive Program.

The Commission concludes that to fully evaluate the Incentive Program, the Postal Service's proposed plan should be enhanced in certain respects to parallel data collection requirements adopted in Docket No. R2009–3 concerning the volume incentive pricing program for Standard Mail. *See* Docket No. R2009–3, PRC Order No. 219, Order Approving Standard Mail Volume Incentive Pricing Program, June 4, 2009, at 14.

Information necessary for evaluating the Incentive Program shall be provided within 15 days after crediting of rebates to qualifying mailers.[21] The Postal Service offers no explanation for delaying reports beyond the due dates established in the Summer Sale. If the Postal Service can justify additional delay, it may request an adjustment of this requirement. Mailer-specific data may be filed under seal. The Postal Service shall report the following data:

1. For each eligible mailer, the Postal Service shall provide monthly volumes and revenues for all presorted First-Class Mail letters, flats, and cards, including residual mailpieces entered as part of presort mailings, for the period October 2006 through January 2010;

2. Information on rebates paid to each qualifying mailer, with supporting calculations;

3. To account for acquisitions and mergers, data are to be reported separately for each company involved on (i) a pre-acquisition or pre-merger basis, and (ii) for the combined company, on a post-acquisition or post-merger basis, with appropriate links between the sheets for each company involved in the acquisition or merger; [22]

4. For each eligible First-Class Mail user, the Postal Service shall provide monthly permit volumes for Standard Mail Letters and Flats for the periods identified in paragraph 1, above;

5. The monthly information identified in paragraphs 1 and 4 above, on an aggregated basis; and

6. The actual administrative costs of the Incentive Program.

The data collected is designed to provide stakeholders and the public with the ability to evaluate the program's impact on Postal Service volumes, revenues, and costs. Like the Summer Sale, the Incentive Program is largely experimental. Thus, data reporting is perhaps the most critical output of the proposal and, as such, it must be robust enough to enable the Commission (and others) to reasonably measure the merits of the instant program. What is learned may guide the design and analytical review of any future Postal Service programs of a similar nature.

V. Ordering Paragraphs

It is ordered:

1. The Commission approves the First-Class Mail Incentive Program.

2. Within 15 days after crediting rebates to qualifying mailers, the Postal Service shall file with the Commission data to be reported on the First-Class Mail Incentive Program as set forth in this order.

3. The Motion of the United States Postal Service for Late Acceptance of Response to Chairman's Information Request No. 3, Question 1, filed September 10, 2009, is granted.

4. The Secretary of the Commission shall arrange for publication of this Order in the **Federal Register.**

By the Commission.

Shoshana M. Grove,

Secretary.

Appendix A—First-Class Mail Incentive Data Collection Plan and Rebate Calculation Information

This Appendix contains an outline of the First-Class Mail Incentive Data Report contents as specified in this order. The template is presented to help clarify the disaggregation by product, shape, and time period as described in the order.

The specific format of the report may be tailored to fit the presentation format of the data generation programs of the Postal Service, but should be in a broadly available electronic format such as Microsoft Excel.

Workbook (1), Mailer Information, contains the disaggregated Volume and Revenue information to be reported for each mailer eligible for the Incentive Program. This tab and the Incentive Rebate calculations contained therein should be replicated for each eligible mailer. For mailers party to a merger or acquisition, separate tabs for each pre-merger (or pre-acquisition) entity are to be provided, with links to the tab for the post-merger (or post-acquisition) entity.

Workbook (2), Aggregate Information, contains the Volume and Revenue categories as they appear in tab (1). The Incentive Aggregate Incremental Volume and Aggregate Rebate should be a summation calculation linked to each Mailer Information tab so that each volume and revenue figure represents the total for all eligible mailers for the relevant month.

[19] The Postal Service defines eligible mailer as ''a company [that has] mailed 500,000 or more non-parcel First-Class Mail pieces between October 1 and December 31 in both 2007 and 2008, through permit accounts owned by the company, or through permits set up on behalf of the company by a Mail Service Provider (MSP).'' *Id.* at 3.

[20] The Postal Service proposes that the information reported in paragraphs 1, 2, and 3 be filed under seal with mailers' identities masked. *Id.* at 6.

[21] *See* Appendix A for a tabular representation of the content and form of the data to be provided.

[22] Mailers' identities may be masked using a generic identification number. Whenever that convention is used, however, the Postal Service shall file a companion document under seal that provides a crosswalk between the generic identification number and the identity of each mailer.

WORKBOOK (1): MAILER INFORMATION

Mailer name	Month (for each month)			
	October-06	November-06	December-09	January-10
Volume				
First Class Presort				
Letters.				
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Revenue				
First Class Presort				
Letter.				
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Rebate Calculation for each Mailer	Formula		Calculation	
Threshold				
Incremental Volume				
Volume Shift Adjustment				
Volume Eligible for Discount				
Average Revenue Per Piece				
Rebate				

[1] Formulas used in the determination of Volume Threshold, Incremental Volume, October 2009 Adjustment, Average Revenue Per Piece, and Summer Sale Rebate should be shown on each mailer page. Only mailer input data should be hardcoded.

* Presort Residual refers to mail entered with bulk presort mailings that does not qualify for presort rates.

WORKBOOK (2): AGGREGATE INFORMATION

Eligible mailer information	Month (for each month)			
	October–06	November–06	December–09	January–10
Volume				
First Class Presort				
Letters.				
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Revenue				
First Class Presort				
Letter.				

WORKBOOK (2): AGGREGATE INFORMATION—Continued

Eligible mailer information	Month (for each month)			
	October–06	November–06	December–09	January–10
Flats.				
Cards.				
First Class Presort Residual*				
Letters.				
Flats.				
Cards.				
Standard				
Letters.				
Flats.				
Carrier Route Letters.				
Carrier Route Flats.				
High Density and Saturation Letters.				
High Density and Saturation Flats.				
Rebate Calculation for each Mailer	Formula		Calculation	
Threshold				
Incremental Volume				
Volume Shift Adjustment				
Volume Eligible for Discount				
Average Revenue Per Piece				
Rebate				

[1] Formulas used in the determination of Volume Threshold, Incremental Volume, October 2009 Adjustment, Average Revenue Per Piece, and Summer Sale Rebate should be shown on each mailer page. Only mailer input data should be hardcoded.

* Presort Residual refers to mail entered with bulk presort mailings that does not qualify for presort rates.

[FR Doc. E9–23024 Filed 9–23–09; 8:45 am]
BILLING CODE 7710–FW–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Director for Reports Clearance to the addresses or fax numbers shown below.

(OMB), Office of Management and Budget, *Attn:* Desk Officer for SSA, *Fax:* 202–395–6974, *E-mail address: OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, DCBFM, *Attn:* Director, Center for Reports Clearance, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, *Fax:* 410–965–0454, *E-mail address: OPLM.RCO@ssa.gov*.

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than November 23, 2009. Individuals can obtain copies of the collection instrument by calling the SSA Director for Reports Clearance at 410–965–0454 or by writing to the above e-mail address.

1. *Application for Widow's or Widower's Insurance Benefits—20 CFR 404.335–404.338, 404.603—0960–0004.* SSA uses the information on the SSA–10–BK to determine whether the applicant meets the statutory and regulatory conditions for entitlement to widow(er)'s Social Security Title II benefits. The respondents are applicants for widow's or widower's benefits.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 341,560.

Collection method	Number of respondents	Average burden per response (minutes)	Burden hours
MCS	162,241	15	40,560
MCS/Signature Proxy	162,241	14	37,856
Paper	17,078	15	4,270
Totals:	341,560	.....	82,686

Estimated Annual Burden: 82,686 hours.

2. *Substitution of Party upon Death of Claimant—20 CFR 404.957(c)(4) and 416.1457(c)(4)—0960–0288.* SSA collects information on Form HA–539

when a claimant for Social Security or Supplemental Security Income benefits dies while his or her request for a hearing is pending. The information SSA collects establishes a written record of the request of any individual who asks to be made a substitute party for a deceased claimant. It also facilitates a decision by SSA on whom, if anyone, should become a substitute party for the deceased. The Administrative Law Judge and the hearing office support staff use this information to: (1) Establish the relationship of the requester to the deceased claimant; (2) determine the substituted individual's wishes regarding an oral hearing or decision on the record; and (3) admit the data into the claimant's official record as an exhibit. The respondents are individuals requesting to be made a substitute party for a deceased claimant.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 4,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 333 hours.

3. *Non-Attorney Representative Demonstration Project Application—20 CFR 404.1745–404.1799 and 20 CFR 416.1545–416.1599—0960–0699.* Section 303 of the Social Security Protection Act of 2004 (SSPA) provides for a 5-year demonstration project under which SSA extends the direct payment of approved fees to certain non-attorney claimant representatives. Under the SSPA, to be eligible for direct payment of fees, a non-attorney representative must fulfill the following statutory requirements: (1) Possess a bachelors degree or have equivalent qualifications from training and work experience; (2) pass an examination that tests knowledge of the relevant provisions of the Social Security Act; (3) secure professional liability insurance or equivalent insurance; (4) pass a criminal background check; and (5) demonstrate completion of relevant continuing education courses. Through the services of a private contractor, SSA must collect the requested information to determine if a non-attorney representative has met the statutory requirements to be eligible for direct payment of fees for his or her claimant representation services. SSA needs this information to comply with the legislation. The respondents are non-attorney representatives who apply for direct payment of fees.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 700.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 700 hours.

4. *Medicare Part B Income-Related Monthly Adjustment Amount Subsidies Regulations—20 CFR 418—0960–0741.* The Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 established the Medicare Part B program for voluntary prescription drug coverage of premium, deductible, and co-payment costs for certain low-income individuals. The income-related monthly adjustment amount represents the amount of decrease in the Medicare Part B premium subsidy; *i.e.,* the amount of the Federal Government's contribution to the Federal Supplementary Medical Insurance Trust Fund. SSA uses these regulations to determine when a monthly adjustment amount to a beneficiary's standard monthly premium under Medicare Part B occurs. The respondents are applicants for the Medicare Part B income-related monthly adjustment amount. The regulations sections below contain public reporting requirements for which no OMB-approved forms exist.

Type of Request: Extension of an OMB-approved information collection.

Section	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Situation in which beneficiaries ask SSA to examine a different tax return than the one they originally used to make their determination: § 418.1310(a)	9,820	1	30	4,910
Situations related to requests for new initial determinations based on beneficiary reports that a major life-changing event has significantly reduced their MAGI: § 418.1005(c) § 418.1250 § 418.1255 § 418.1265	160,000	1	30	80,000
Situations related to requests for additional new initial determinations and updates of MAGI that a beneficiary provided for a new initial determination: § 418.1235 (c)–(d)§ 418.1240 § 418.1245	1,045	1	30	523
Total	170,865	.....	.....	85,433

Estimated Annual Burden: 85,433.

II. SSA has submitted the information collections we list below to OMB for clearance. Your comments on the information collections would be most useful if OMB and SSA receive them within 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than October 26, 2009. You can obtain a copy of the OMB clearance packages by calling the SSA Director for Reports Clearance at 410–965–0454 or by writing to the above e-mail address.

1. *Waiver of Right to Appear—Disability Hearing—20 CFR 404.913–404.914, 404.916(b)(5), 416.1413–416.1414, 416.1416(b)(5)—0960–0534.* SSA uses Form SSA–773–U4 for claimants, or their representatives, to officially waive their right to appear at a disability hearing. The disability hearing officer uses the signed form as a basis for not holding a hearing and for preparing a written decision on the claimants request for disability based solely on the evidence of record. The respondents are claimants, or their representatives, for disability under Titles II and XVI of the Social Security Act, who wish to waive their right to appear at a disability hearing.

Note: This is a correction notice. SSA published this information collection as an extension on July 27, 2009 at 74 FR 37081. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 200.

Frequency of Response: 1.

Average Burden Per Response: 3 minutes.

Estimated Annual Burden: 10 hours.

2. *Medical Consultant's Review of Physical Residual Functional Capacity Assessment—20 CFR 404.1545–.1546, 404.1640, 404.1643, 404.1645, 416.945–.946—0960–0680.* SSA uses Form SSA–392 to facilitate the medical/

psychological consultant's review of the Physical Residual Functional Capacity Form, SSA–4734. The SSA–392 records the reviewing medical/psychological consultant's assessment of the SSA–4734. It also documents whether the reviewer agrees or disagrees with how the adjudicator completed the SSA–4734. Medical/psychological consultants prepare the SSA–392 for each SSA–4734 an adjudicator completes. The respondents are medical/psychological consultants who conduct a quality review of adjudicating components' completion of SSA's medical assessment forms.

Note: This is a correction notice. SSA published this information collection as an extension on July 27, 2009 at 74 FR 37081. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 256.

Frequency of Response: 359.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 18,381 hours.

3. *Statement of Reclamation Action—31 CFR 210—0960–0734.* SSA uses Form SSA–1713 to collect information to determine if a Canadian bank is able to return erroneous payments, and to determine how and when it can return the payments made after the death of a beneficiary who elected to have payments sent to Canada. Form SSA–1712 (or SSA–1712 CN) is the cover sheet SSA prepares to request return of a payment erroneously made after the death of the recipient. SSA sends Form SSA—1712 with Form SSA–1713. The respondents are Canadian financial institutions that received Social Security payments.

Note: This is a correction notice. SSA published this information collection as an extension on July 10, 2009 at 74 FR 33313. Since we are revising the Privacy Act Statement, this is now a revision of an OMB-approved information collection.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 15.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 1 hour.

Dated: September 18, 2009.

Elizabeth A. Davidson,

Director, Center for Reports Clearance, Social Security Administration.

[FR Doc. E9–23074 Filed 9–23–09; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0061]

Modifications to the Disability Determination Procedures; Extension of Testing of Some Disability Redesign Features

AGENCY: Social Security Administration.

ACTION: Notice of the extension of tests involving modifications to the disability determination procedures.

SUMMARY: We are announcing the extension of tests involving modifications to disability determination procedures authorized by 20 CFR 404.906 and 416.1406. These rules authorize us to test several modifications to the disability determination procedures for adjudicating claims for disability insurance benefits under title II of the Social Security Act (Act) and for supplemental security income payments based on disability under title XVI of the Act.

DATES: We are extending our selection of cases to be included in these tests from September 30, 2009 until no later than September 28, 2012. If we decide to continue selection of cases for these tests beyond this date, we will publish another notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Michele Schaefer, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, 410–594–0083, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: Our current rules authorize us to test, individually or in any combination, certain modifications of the disability determination procedures. 20 CFR 404.906 and 416.1406. We have conducted several tests under the authority of these rules. In the ''single decisionmaker,'' test, a disability examiner may make the initial disability determination in most cases without obtaining the signature of a medical or psychological consultant. We also have conducted a separate test, which we call the ''prototype,'' in 10 States. 64 FR 47218. Currently, the prototype combines the single decisionmaker approach described above with the elimination of the reconsideration level of our administrative review process.

We have extended the time period for selecting claims for these tests several times. Most recently, on August 10, 2006, we extended the time period until September 30, 2009. 71 FR 45890. We have decided to extend case selection for the current disability prototype process (single decisionmaker and elimination of the reconsideration step) and for the separate test of the single decisionmaker until September 28, 2012. If we decide to end case selection for any part of the disability prototype in any the 10 States in which we are conducting the tests prior to September 28, 2012, we will publish another notice in the **Federal Register**.

Dated: September 18, 2009.

David A. Rust,

Deputy Commissioner for Retirement and Disability Policy.

[FR Doc. E9–23110 Filed 9–23–09; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 6768]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: FY–2010 Study of the United States Institutes for Scholars

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/E/USS–10–02–04.

Catalog of Federal Domestic Assistance Number: 19.401.

Key Dates

Application Deadline: December 3, 2009.

Executive Summary: The Branch for the Study of the United States, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, invites proposal submissions for the design and implementation of three Study of the United States Institutes to take place over the course of six weeks beginning in June 2010. These Institutes should provide a multinational group of experienced educators with a deeper understanding of U.S. society, culture, values, and institutions.

Two of these Institutes will be for groups of 18 foreign university level faculty, focusing on U.S. Culture and Society, and Journalism and Media. The third Institute will be a general survey course on the study of the United States for a group of 30 foreign secondary educators.

Applicants may propose to host only one Institute listed under this competition. Should an applicant submit multiple proposals under this competition, all proposals will be declared technically ineligible and

given no further consideration in the review process.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries* * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations* * *and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose: Study of the United States Institutes are intensive academic programs whose purpose is to provide foreign university faculty, secondary educators, and other scholars the opportunity to deepen their understanding of American society, culture, and institutions. The ultimate goal is to strengthen curricula and to improve the quality of teaching about the United States in academic institutions abroad.

The Bureau is seeking detailed proposals for three different Study of the United States Institutes from U.S. colleges, universities, and other not-for-profit academic organizations that have an established reputation in a field or discipline related to the specific program themes.

Overview: Each program should be six weeks in length; participants will spend approximately four weeks at the host institution, and approximately two weeks on the educational study tour, including two to three days in Washington, DC, at the conclusion of the Institute. The educational travel component should directly complement the academic program, and should include visits to cities and other sites of interest in the region around the awardee institution, as well as to another geographic region of the country. The awardee institution also will be expected to provide participants with guidance and resources for further investigation and research on the topics and issues examined during the institute after they return home.

The Study of the U.S. Institute on U.S. Culture and Society should provide a multinational group of 18 experienced and highly-motivated foreign university faculty and other specialists with a deeper understanding of U.S. society, culture, values, and institutions. The Institute should examine the ethnic, racial, economic, political, and religious contexts in which various cultures have manifested themselves in U.S. society, and the ways in which these cultures have influenced both social movements and historical epochs throughout U.S. history. The program should draw from a diverse disciplinary base, and should itself provide a model of how a foreign university might approach the study of U.S. culture and society. One award of up to $290,000 will support this Institute.

The Study of the U.S. Institute on Journalism and Media should provide a multinational group of 18 experienced and highly-motivated foreign journalism instructors and other related specialists with a deeper understanding of the roles that journalism and the media play in U.S. society. The Institute should examine the rights and responsibilities of the media in a democratic society, including editorial independence, journalistic ethics, legal constraints, foreign policy issues, and media business models. The Institute should include strategies for teaching students of journalism the basics of the tradecraft: researching, reporting, writing, and editing. The program should also highlight technology's impact on journalism, addressing the influence of the Internet, the globalization of the news media, the growth of satellite television and radio networks, and other advances in media that are transforming the profession. One award of up to $290,000 will support this Institute.

The Study of the U.S. Institute for Secondary Educators should provide a multinational group of 30 experienced secondary school educators (teachers, teacher trainers, curriculum developers, textbook writers, or education ministry officials) with a deeper understanding of U.S. society, education, and culture—past and present. The Institute should be organized around a central theme or themes in U.S. civilization and should have a strong contemporary component. Through a combination of traditional, multi-disciplinary, and interdisciplinary approaches, program content should be imaginatively integrated in order to elucidate the history and evolution of U.S. educational institutions and values, broadly defined. The program should also serve to illuminate contemporary political, social, and economic debates in American society. One award of up to $360,000 will support this Institute.

Program Design: Each Study of the U.S. Institute should be designed as an intensive, academically rigorous seminar for an experienced group of educators from abroad. Each Institute should be organized through an integrated series of lectures, readings, seminar discussions, and regional travel and site visits, and also should include sessions that expose participants to U.S. pedagogical philosophy and practice for teaching the discipline. Each Institute also should include some opportunity for limited but well-directed independent research.

Applicants are encouraged to design thematically coherent programs in ways that draw upon the particular strengths, faculty, and resources of their institutions as well as upon the nationally recognized expertise of scholars and other experts throughout the United States.

Participants: Participants will be nominated by U.S. Embassies and Fulbright Commissions from all regions of the world, with final selection made by the Bureau's Branch for the Study of the United States. Every effort will be made to select a balanced mix of male and female participants. Participants will be diverse in terms of age, professional position, and experience abroad. All participants will have a good knowledge of English.

Participants may come from educational institutions where the study of the United States is relatively well-developed, or they may be pioneers in this field at their home institutions. Some participants may not have visited the United States previously, while others may have had sustained professional contact with American scholars and American scholarship as well as prior study and travel experience in the U.S. In all cases, participants will be accomplished teachers and scholars who will be prepared to participate in an intellectually rigorous academic seminar that offers a collegial atmosphere conducive to the exchange of ideas.

Program Dates: The Institutes should be a maximum of 44 days in length (including participant arrival and departure days) and should begin by June 2010.

Program Guidelines: While the conception and structure of the Institute agenda is the responsibility of the organizers, it is essential that proposals provide a detailed and comprehensive narrative describing the objectives of the Institute; the title, scope and content of each session; planned site visits; and

how each session relates to the overall institute theme. Proposals must include a syllabus that indicates the subject matter for each lecture, panel discussion, group presentation, or other activity. The syllabus also should confirm or provisionally identify proposed speakers, trainers, and session leaders, and clearly show how assigned readings will advance the goals of each session. Overall, proposals will be reviewed on the basis of their responsiveness to RFGP criteria, coherence, clarity, and attention to detail. The accompanying Project Objectives, Goals, and Implementation (POGI) document provides program-specific guidelines that all proposals must address fully.

Please Note: In a cooperative agreement, the Branch for the Study of the United States is substantially involved in program activities above and beyond routine grant monitoring. The Branch will assume the following responsibilities for the Institute: Participate in the selection of participants; oversee the Institute through one or more site visits; debrief participants in Washington, DC at the conclusion of the Institute; and engage in follow-on communication with the participants after they return to their home countries. The Branch may request that the awardee institution make modifications to the academic residency and/or educational travel components of the program. The recipient will be required to obtain approval of significant program changes in advance of their implementation.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY 2010.

Approximate Total Funding: $920,000.

Approximate Number of Awards: Three (3).

Approximate Average Award: Two awards of $290,000 for 18 participants each; one award of $360,000 for 30 participants.

Floor of Award Range: $290,000.

Ceiling of Award Range: $360,000.

Anticipated Award Date: Pending availability of funds, March 1, 2010.

Anticipated Project Completion Date: March 2011.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this cooperative agreement for two additional fiscal years before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

(a.) Bureau grant guidelines require that organizations with fewer than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates making three awards, two in an amount up to $290,000, and in one in an amount up to $360,000 to support the program and administrative costs required to implement this exchange program. Therefore, organizations with fewer than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b.) *Technical Eligibility:* It is the Bureau's intent to award three separate cooperative agreements to three different institutions under this competition. Therefore prospective applicants may submit only one proposal under this competition. All applicants must comply with this requirement. Should an applicant submit multiple proposals under this competition, all proposals will be declared technically ineligible and given no further consideration in the review process.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact the Branch for the Study of the United States, ECA/A/E/USS, Fourth Floor, U.S. Department of State, SA–5, 2200 C Street, NW., Washington, DC 20522–0504, (202) 632–3340 to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/E/USS–10–02–04 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals, and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Brendan M. Walsh and refer to the Funding Opportunity Number ECA/A/E/USS–10–02–04 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html,* or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government.

This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative, and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals, and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application.

Please Note: Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, ''Return of Organization Exempt From Income Tax,'' must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to all Regulations Governing The J Visa

The Bureau of Educational and Cultural Affairs places critically important emphases on the security and proper administration of the Exchange Visitor (J visa) Programs and adherence by award recipients and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, Office of Designation, ECA/EC/D, SA–5, Floor C2, Department of State, Washington, DC 20522–0582.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs

and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please Note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—''Budget Information—Non-Construction Programs'' along with a comprehensive budget for the entire program. Budget requests for either of the two scholar institutes may not exceed $290,000, and administrative costs should be no more than approximately $95,000. Budget requests for the Institute for Secondary Educators may not exceed $360,000, and administrative costs should be no more than approximately $110,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

(1) Institute staff salary and benefits

(2) Participant housing and meals

(3) Participant travel and per diem

(4) Textbooks, educational materials, and admissions fees

(5) Honoraria for guest speakers

(6) Follow-on programming for alumni of Study of the United States programs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission

Application Deadline Date: December 3, 2009.

Reference Number: ECA/A/E/USS–10–02–04.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) Electronically through *http://www.grants.gov*.

Please Note: ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1., below rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the Grants.gov Web portal as part of the Recovery Act stimulus package. As stated in this RFGP, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will *not* notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important Note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and six (6) copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/A/E/USS–10–02–04, SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20522–0504.

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted CD.

IV.3f.2. Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system.

Please Note: ECA strongly encourages organizations interested in applying for this competition to submit printed, hard copy applications as outlined in section IV.3f.1. above, rather than submitting electronically through Grants.gov. This recommendation is being made as a result of the anticipated high volume of grant proposals that will be submitted via the Grants.gov webportal as part of the Recovery Act stimulus package. As stated in this RFGP, ECA bears no responsibility for data errors resulting from transmission or conversion processes for proposals submitted via *Grants.gov.*

Please follow the instructions available in the 'Get Started' portion of

the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the ''For Applicants'' section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: 800–518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. *There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.*

Please refer to the Grants.gov Web site, for definitions of various ''application statuses'' and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. *Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.* ECA will *not* notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.Gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Optional—IV.3f.3 You may also state here any limitations on the number of applications that an applicant may submit and make it clear whether the limitation is on the submitting organization, individual program director or both.

IV.3g. *Intergovernmental Review of Applications:* Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of Program Plan and Ability to Achieve Program Objectives:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Objectives should be reasonable, feasible, and flexible. Proposals should demonstrate clearly how the institution will meet the program's objectives and plan.

2. *Support for Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, presenters, and resource materials).

3. *Evaluation and Follow-Up:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives is strongly recommended. Proposals also should discuss provisions made for follow-up with returned participants as a means of establishing longer-term individual and institutional linkages.

4. *Cost-Effectiveness/Cost-Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support, as well as institutional direct funding contributions.

5. *Institutional Track Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be fully qualified to achieve the project's goals.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.''

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.
http://fa.statebuy.state.gov

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) An interim program report no more than 90 days after the completion of the summer Institute;

(2) A final program and financial report no more than 90 days after the expiration of the award;

(3) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's *USAspending.gov* Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(4) An SF–PPR, ''Performance Progress Report'' Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Brendan M. Walsh, Branch for the Study of the United States, ECA/A/E/USS, U.S. Department of State, Fourth Floor, U.S. Department of State, SA–5, 2200 C Street, NW., Washington, DC 20522–0504, phone: (202) 632–3340, or e-mail: *WalshBM@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/E/USS–10–02–04.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: September 17, 2009.

Maura M. Pally,

Acting Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. E9–23108 Filed 9–23–09; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6769]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 24 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Kovac, Managing Director, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2861.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

July 27, 2009 (Transmittal No. DDTC 010–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and defense articles to Turkey to perform maintenance and service of F110–GE–100 and F110–GE–129 aircraft engines installed on Turkish Air Force F–16 fighter aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 028–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed export of defense articles or defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles from the United States to Canada in support of the transfer of title of one commercial communications satellite to Canada.

The United States Government is prepared to license the transfer of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though

unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 13, 2009 (Transmittal No. DDTC 034–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 3(d)(3) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed transfer of technical data, defense services, and defense articles in the amount of $50,000,000 or more under Section 38 of the AECA.

The transaction contained in the attached certification involves the sale of six (6) JAS–39 Gripen Fighter Aircraft and one (1) Airborne Early Warning System containing U.S. origin content, technical data, spare parts, and ground support equipment, from the Government of Sweden to the Government of Thailand.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 036–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles and defense services for the supply and support of the RF–5800 and RF–7800 series radios and accessories for end-use by the United Arab Emirates Armed Forces Special Operations Command.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 037–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Sections 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for export of technical data, defense services and defense articles in the amount of $100,000,000 or more, and for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles and defense services for the M72 Lightweight Anti-Armor Weapon System to Thailand.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

June 22, 2009 (Transmittal No. DDTC 038–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to support the Proton launch of the AsiaSat5 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 040–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles or defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Switzerland for the manufacture, assembly, repair, overhaul and logistical support for the MK44 Chain Gun used in an Armored Infantry Vehicle in Switzerland.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 047–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to Israel for equipment installation and support services related to the Digital Army Program on behalf of the Israeli Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 048–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services and hardware to Singapore and the United Kingdom to support the manufacture of display monitors, display assembly kits, and display unit subassemblies for Raytheon Company in support of United States Government contracts.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 049–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more, and for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to support the manufacture of Mk 46 Torpedo assemblies and components in Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 051–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Germany for the manufacture of chemical defense fabrics for end-use by the Ministries of Defense within an authorized sales territory.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 053–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of the AN/GPA–124 IFF Coder/Decoder and the AN/GPM–64 Test Set for the Ministry of Defense of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 055–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to support the manufacture of X1100-Series transmissions in the Republic of Korea.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 057–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more, and for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to support the manufacture, modernization, upgrade, and overhaul of the M113 Family of Vehicles in Turkey.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 058–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services for the manufacture of the 737 Airborne Early Warning & Control (AEW&C) System, Project Wedgetail for end-use by the Australian Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 059–09.)
Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan for the manufacture of the S–70A Helicopter for end use by the Japanese Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 060–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan for the manufacture of T64 engine parts for end use by the Japanese Ministry of Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 061–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to support the Proton launch of the AMC–4R Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 063–09.)

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense articles, including technical data, and defense services related to the supply and support of the torpedo propulsion system for the Spearfish Heavyweight Torpedo for use by the United Kingdom Ministry of Defence.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 067–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of an application for a license for the export of defense articles and defense services to be sold under a contract in the amount of $100,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Australia related to the IS–22 Commercial Communications Satellite and its associated ground network.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 071–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a license for the export of defense articles or defense services to be sold under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of defense services and defense articles, including technical data, related to the design, manufacture, test and delivery of the BSAT–3c/JCSAT–110R Commercial Communications Satellite(s) for Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 9, 2009 (Transmittal No. DDTC 072–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement to include the export of technical data, defense services, and defense articles in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to support the Proton launch of the Intelsat 16 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 27, 2009 (Transmittal No. DDTC 073–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(c) and 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense services and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer of technical

data, defense services, and hardware to the Republic of Korea to support the manufacture of major and minor components of the J–85 Turbine Engine used in the F–5, as well as tooling and machinery required to make the components.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

July 13, 2009 (Transmittal No. DDTC 074–09.)

Hon. Nancy Pelosi, Speaker of the House of Representatives.

Dear Madam Speaker: Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the transfer of technical data, defense services, and hardware to the Commonwealth of Australia to support the manufacture, assembly, verification and test of Small Unmanned Aerial Vehicles and associated components for sale exclusively to AAI Corporation in the United States.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Richard R. Verma,
Assistant Secretary Legislative Affairs.

Dated: August 12, 2009.

Robert S. Kovac,

Managing Director, Directorate of Defense Trade Controls, Department of State.

[FR Doc. E9–23130 Filed 9–23–09; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 6770]

Culturally Significant Objects Imported for Exhibition Determinations: ''Bauhaus 1919–1933: Workshops for Modernity''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects in the exhibition: ''Bauhaus 1919–1933: Workshops for Modernity,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Modern Art, New York, N.Y., from on or about November 8, 2009, until on or about January 25, 2010, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The address is U.S. Department of State, L/PD, SA–5, 2200 C Street, NW., Suite 5H03, Washington, DC 20522–0505.

Dated: September 18, 2009.

Maura M. Pally,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E9–23131 Filed 9–23–09; 8:45 am]

BILLING CODE 4710–05–P

TRADE AND DEVELOPMENT AGENCY

Notice of Public Information Collection Requirements Submitted to OMB for Review

AGENCY: United States Trade and Development Agency.

ACTION: Request for comments.

SUMMARY: USTDA invites the general public and other Federal agencies to take this opportunity to comment on the following proposed information collection, as required by the Paperwork Reduction Act of 1995. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

DATES: Comments must be received by November 23, 2009.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: Carolyn Hum, Administrative Officer, Attn: PRA, U.S. Trade and Development Agency, 1000 Wilson Boulevard, Suite 1600, Arlington, VA 22209–3901; Tel.: (703) 875–4357, Fax: (703) 656–4810; E-mail: *PRA@ustda.gov.*

SUPPLEMENTARY INFORMATION:

Summary Collection Under Review

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Title: Evaluation of USTDA Performance.

Form Number: USTDA 1000E–2009a.

Frequency of Use: annually for duration of project.

Type of Respondents: Business or other for profit; Not-for-profit institutions; Farms; Federal Government.

Description of Affected Public: U.S. companies and other entities that participate in USTDA-funded activities.

Reporting Hours: 1,000 hours per year.

Number of Responses: 3,000 per year.

Federal Cost: $425,000 per year.

Authority for Information Collection: Government Performance and Results Act of 1993 103 Public Law 62; 107 Stat. 285.

Abstract (Needs and Uses): USTDA and contractors will collect information from various stakeholders on USTDA-funded activities regarding developmental impact and/or commercial objectives as well as evaluate success regarding GPRA and OMB PART objectives.

Dated: September 18, 2009.

Carolyn Hum,

Administrative Officer.

[FR Doc. E9–23023 Filed 9–23–09; 8:45 am]

BILLING CODE 8040–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR–2009–0022]

Implementation of the U.S.-EC Beef Hormones Memorandum of Understanding

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and action.

SUMMARY: On May 13, 2009, the United States and the European Communities (''EC'') announced the signing of a Memorandum of Understanding (MOU) in the *Beef Hormones* dispute. Under the first phase of the agreement, the EC is obligated to open a new beef tariff-rate quota (TRQ) in the amount of 20,000 metric tons at zero rate of duty. The United States in turn is obligated not to increase additional duties above those in effect as of March 23, 2009. The EC established the new beef TRQ on August 1, 2009. The Office of the United States Trade Representative (USTR) is providing notice that the Trade Representative is terminating additional duties that were announced in January 2009, but which have been delayed up to now and have never entered into force. This action leaves in place the additional duties that have been in effect since March 23, 2009 on a reduced list of products. (For ease of reference, the reduced list is reprinted in the annex to this notice.) By taking this action, the Trade Representative has completed the process necessary to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU.

DATES: *Effective Date:* Additional duties in connection with the *Beef Hormones* dispute had been scheduled to be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after September 19, 2009. Effective September 19, 2009, those additional duties are terminated. This action leaves in place the 100 percent *ad valorem* duties that have been in effect since March 23, 2009 on a reduced list of products.

FOR FURTHER INFORMATION CONTACT: Roger Wentzel, Director, Agricultural Affairs, (202) 395–6127 or David Weiner, Director for the European Union, (202) 395–4620 for questions concerning the *EC-Beef Hormones* dispute or the MOU; or William Busis, Associate General Counsel and Chair of the Section 301 Committee, (202) 395–3150, for questions concerning procedures under Section 301. Questions concerning customs matters may be directed to Renee Chovanec, International Coordination, Office of International Trade, U.S. Customs and Border Protection, 202–863–6384.

SUPPLEMENTARY INFORMATION:

A. Background

In a notice published on January 23, 2009, the Trade Representative determined to modify the action taken in July 1999 in connection with the World Trade Organization (''WTO'') authorization of the United States in the *EC-Beef Hormones* dispute to suspend concessions and related obligations with respect to the European Communities (''EC''). *See* 74 FR 4265 (Jan. 23, 2009) (hereinafter referred to as the January 2009 action). The January 2009 action initially had an effective date of March 23, 2009. The Trade Representative subsequently delayed the effective date of the additional duties imposed under the January 2009 action to April 23, 2009; to May 9, 2009; to August 15, 2009, and then to September 19, 2009. *See* 74 FR 11613 (March 18, 2009); 74 FR 12402 (March 24, 2009); 74 FR 19263 (April 28, 2009); 74 FR 22626 (May 13, 2009); 74 FR 40864 (August 13, 2009).

The effective date of the removal of duties under the January 2009 action remained March 23, 2009. As a result, a reduced list of products subject to additional duties (at a rate of 100 percent *ad valorem*) has been in place since March 23, 2009. These are products that had been covered by the 1999 action, but that had not been removed from the list under the January 2009 action. This reduced list is set out in the Annex to this notice.

Under the first phase of the MOU, which concludes on August 3, 2012, the United States maintains the right to impose the additional duties on this reduced list of products, and is obligated not to raise the level of duties on these products or to impose additional duties on any other products in connection with the *EC-Beef Hormones* WTO dispute.

Under a possible second phase of the MOU, the EC would expand the beef TRQ to 45,000 metric tons, and the United States would suspend all of the additional duties imposed in connection with the *EC-Beef Hormones* WTO dispute.

For additional background concerning the *EC-Beef Hormones* WTO dispute; the January 2009 action; and the prior delays in the effective date of the new duties under the January 2009 action, see 73 FR 66066 (Nov. 6, 2008); 74 FR 4265 (Jan. 23, 2009), 74 FR 11613 (March 18, 2009), 74 FR 12402 (March 24, 2009), 74 FR 19263 (April 28, 2009), 74 FR 22626 (May 13, 2009), and 74 FR 40864 (August 13, 2009). Further information on the May 13, 2009 U.S.-EC MOU may be found on USTR's Web site, *http://www.ustr.gov.*

In a notice published on August 13, 2009, the Section 301 Committee invited public comment on the action to be taken to implement U.S. obligations under the first phase of the MOU and to pursue additional market access under subsequent phases of the MOU. The notice included the list of products that have been subject to additional duties since March 23, 2009, and sought comments with regard to maintaining the 100 percent duties on those products throughout the remainder of the first phase of the MOU. *See* 74 FR 40864 (August 13, 2009). The comments submitted in response to the August notice may be viewed on the *http://www.regulations.gov* Web site under docket number USTR–2009–0022.

Taking account of the comments submitted in response to the notice, the Section 301 Committee recommended that the Trade Representative should terminate the additional duties under the January 2009 action that have been delayed up until September 19, 2009, and should leave in place the reduced list of products subject to 100 percent *ad valorem* duties that has been in effect since March 23, 2009. The Trade Policy Staff Committee (TPSC) has adopted the recommendation of the Section 301 Committee.

B. Determinations To Implement U.S.-EC Beef Hormones MOU

1. Determination Under Section 307(a)

Section 307(a) of the Trade Act of 1974, as amended, (''Trade Act'') provides that ''The Trade Representative may modify or terminate any action * * * that is being taken under section [301] if * * * (B) the burden or restriction on United States commerce of the denial of rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased.'' By establishing a 20,000 metric ton high-quality beef TRQ, the EC has decreased the burden or restriction on U.S. commerce.

The January 2009 action: (1) Removed some products from the list of products that had been subject to 100 percent *ad valorem* duties since 1999; (2) imposed 100 percent *ad valorem* duties on

certain new products from certain EC member States; (3) modified the coverage with respect to particular EC member States; and (4) raised the level of duties on one of the products (tariff subheading 9903.02.30) on the original 1999 list. The March 23, 2009 effective date of the imposition of new duties (items 2–4 above) was repeatedly delayed, and those duties have never entered into force.

In light of the decreased burden or restriction on U.S. commerce resulting from the EC's establishment of the high-quality beef TRQ, and in accordance with the recommendation of the TPSC, the Trade Representative has determined under section 307(a) of the Trade Act to modify the January 2009 action by terminating the new duties (items 2–4 above) under the January 2009 action. The Trade Representative has determined to leave in place the 100 percent *ad valorem* duties on the attached list of products that have been subject to such duties since March 23, 2009. This action under section 307(a) implements U.S. obligations under the first phase of the MOU, while maintaining additional duties that have applied since March 23, 2009 in order to pursue additional market access under subsequent phases of the MOU.

2. Determination Under Section 306(b)(2)(B)

Section 306(b)(2)(B) of the Trade Act provides for the periodic review and revision of section 301 actions taken in connection with WTO dispute settlement proceedings. Section 306(b)(2)(B)(ii)(II) provides an exception in the event that the Trade Representative and the affected U.S. industry agree that changing the action under section 301 is unnecessary.

Industry associations representing the U.S. beef-producing industry have informed the Trade Representative that they believe it is unnecessary for USTR to revise the retaliation list in the *Beef Hormones* dispute while the MOU, which provides additional market access for U.S. beef producers, is in effect. Pursuant to section 306(b)(2)(B)(ii)(II) of the Trade Act of 1974, the Trade Representative has determined to agree with the affected U.S. industry that it is unnecessary to revise the retaliation list established pursuant to the above action under Section 307(a) while the EC is providing the additional market access in accordance with the MOU.

3. Section 306 Monitoring

Pursuant to Section 306 of the Trade Act, the Trade Representative will continue to monitor the EC's implementation of the MOU.

C. The Trade Representative's Action and the HTS

In July 1999, pursuant to a WTO authorization, the Trade Representative imposed 100 percent *ad valorem* rates of duty on a list of EC products. The 1999 action was reflected in subheadings 9903.02.21 through 9903.02.47 of the Harmonized Tariff Schedule of the United States (HTS), effective July 29, 1999. *See* 64 FR 40638 (July 27, 1999).

As noted, the January 2009 action: (1) Removed some products from the list of products that had been subject to 100 percent *ad valorem* duties under the 1999 action; (2) imposed 100 percent *ad valorem* duties on certain new products from certain EC member States; (3) modified the coverage with respect to particular EC member States; and (4) raised the level of duties on one of the products (tariff subheading 9903.02.30) covered by the 1999 action. *See* 74 FR 4265 (Jan. 23, 2009). The January 2009 action left in place 100 percent *ad valorem* rates of duty on some of the products covered by the 1999 action.

When the original March 23, 2009 effective date of the new duties under the January 2009 action was delayed, the annex reflecting the January 2009 action in the HTS was replaced by annexes to a notice published at 74 FR 12402 (March 24, 2009).

Annex I of the notice published at 74 FR 12402 (March 24, 2009) reflected the removal under the January 2009 action (item (1) above) of certain products from the list covered by the 1999 action, effective March 23, 2009. In particular, the following HTS subheadings were deleted from the HTS as of March 23, 2009: 9903.02.31, 9903.02.33, 9903.02.35, 03.02.37, 9903.02.38, 9903.02.39, 9903.02.40, 9903.02.41, 9903.02.42, and 9903.02.47. Also, because the scope of HTS subheading 9903.02.36 was reduced from fourteen EC member States to two EC member States, HTS subheading 9903.02.36 was deleted and replaced by HTS subheading 9903.02.83.

Annex II of the notice published at 74 FR 12402 (March 24, 2009) reflected the new duties (items 2–4 above) under the January 2009 action. The effective date of Annex II has been repeatedly delayed, and Annex II has never entered into force. In accordance with the Trade Representative's determination to terminate the new duties (items 2–4 above) under the January 2009 action, Annex II of the notice published at 74 FR 12402 (March 24, 2009) is hereby deleted.

As a result of the March 23, 2009 removal of certain products from the list covered by the 1999 action, a reduced list of products subject to additional duties has remained in effect since March 23, 2009. As noted, the Trade Representative has determined to leave in effect this reduced list of products subject to additional duties. Because this list has been in effect since March 23, 2009, no changes to the HTS are required to reflect the Trade Representative's determination under section 307(a) of the Trade Act. However, for ease of reference, the HTS subheadings for the list of products that continue to be subject to 100 percent *ad valorem* duties in connection with the *EC–Beef Hormones* dispute are reproduced in the Annex to this notice. Merchandise covered by the Annex that is admitted to a U.S. foreign trade zone must continue to be admitted in ''privileged foreign status,'' as defined in 19 CFR 146.41.

William Busis,

Chair, Section 301 Committee.

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Annex

	Articles the product of Austria, Belgium, Denmark, Finland, France, the Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, or Sweden:	
	Meat of bovine animals, fresh or chilled (provided for in heading 0201):	
9903.02.21	Articles of subheading 0201.10.05, 0201.10.10, 0201.20.02, 0201.20.04, 0201.20.06, 0201.20.10, 0201.20.30, 0201.20.50, 0201.30.02, 0201.30.04, 0201.30.06, 0201.30.10, 0201.30.30 or 0201.30.50	100%
9903.02.22	Articles of subheading 0201.10.50, 0201.20.80 or 0201.30.80	100%
	Meat of bovine animals, frozen (provided for in heading 0202):	
9903.02.23	Articles of subheading 0202.10.05, 0202.10.10, 0202.20.02, 0202.20.04, 0202.20.06, 0202.20.10, 0202.20.30, 0202.20.50, 0202.30.02, 0202.30.04, 0202.30.06, 0202.30.10, 0202.30.30 or 0202.30.50	100%
9903.02.24	Articles of subheading 0202.10.50, 0202.20.80 or 0202.30.80	100%
9903.02.25	Meat of swine, fresh or chilled (provided for in subheading 0203.11, 0203.12 or 0203.19)	100%
9903.02.26	Carcasses and half-carcasses of swine, frozen (provided for in subheading 0203.21)	100%
9903.02.27	Hams, shoulders and cuts thereof, with bone in, of swine, frozen (provided for in subheading 0203.22)	100%
9903.02.28	Edible offal of bovine animals, fresh or chilled (provided for in subheading 0206.10)	100%
9903.02.29	Edible offal of bovine animals, frozen (provided for in subheading 0206.21, 0206.22 or 0206.29)	100%
9903.02.30	Roquefort cheese (provided for in subheading 0406.40.20 or 0406.40.40) . .	100%
9903.02.32	Truffles, fresh or chilled (provided for in subheading 0709.59.10)	100%
9903.02.34	Other prepared or preserved meat, meat offal or blood, of liver of any animal (provided for in subheading 1602.20)	100%

	Articles the product of France:	
9903.02.43	Hams, shoulders and cuts of meat of swine, with bone in, salted, in brine, dried or smoked (provided for in subheading 0210.11)	100%
9903.02.44	Wool grease (other than crude wool grease) and fatty substances derived from wool grease (including lanolin) (provided for in subheading 1505.00.90)	100%
9903.02.45	Chocolate and other food preparations containing cocoa, in blocks, slabs or bars, filled, weighing 2 kg or less each (provided for in subheading 1806.31)	100%
9903.02.46	Lingonberry and raspberry jams (provided for in subheading 2007.99.05) . .	100%
	Articles the product of Austria or France:	
9903.02.83	Juice of any other single fruit, not elsewhere specified or included, not fortified with vitamins or minerals, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter (provided for in subheading 2009.80.60)	100%

[FR Doc. E9–23000 Filed 9–23–09; 8:45 am]
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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments To Compile the National Trade Estimate Report on Foreign Trade Barriers and Reports on Sanitary and Phytosanitary and Standards-Related Foreign Trade Barriers

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Pursuant to section 181 of the Trade Act of 1974, as amended (19 U.S.C. 2241), the Office of the United States Trade Representative (USTR) is required to publish annually the National Trade Estimate Report on Foreign Trade Barriers (NTE). With this notice, the Trade Policy Staff Committee (TPSC) is requesting interested persons to submit comments to assist it in identifying significant barriers to U.S. exports of goods, services, and U.S. foreign direct investment for inclusion in the NTE.

For the first time this year, the TPSC is requesting that comments on standards-related measures and sanitary and phytosanitary (SPS) measures that create barriers to U.S. exports be submitted separately from other NTE comments. This will assist USTR in preparing two new annual reports starting in 2010 highlighting SPS and standards-related measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant barriers to U.S. exports.

The TPSC invites written comments from the public on issues that USTR should examine in preparing the NTE and the new reports on SPS and standards-related measures. Please note that requirements for submitting comments, as set forth below, are different from those in the previous years.

DATES: Public comments are due not later than:

November 4, 2009 for comments concerning SPS or standards-related measures; and

November 18, 2009 for comments concerning all other measures.

ADDRESSES: Submissions should be made via the Internet at *www.regulations.gov* under the following dockets (based on the subject matter of the submission):

SPS Measures: USTR–2009–0031.

Standards-Related Measures: USTR–2009–0032.

All Other Measures: USTR–2009–0033.

For alternatives to on-line submissions please contact Gloria Blue, Executive Secretary, Trade Policy Staff Committee, USTR (202–395–3475). The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

FOR FURTHER INFORMATION CONTACT: Questions regarding the NTE or on submitting comments in response to this notice should be directed to Gloria Blue at (202) 395–3475. Questions regarding the SPS report or substantive questions concerning comments on SPS measures should be directed to Jane Doherty, Director of Sanitary and Phytosanitary Affairs, USTR (202–395–6127). Questions regarding the report on standards-related measures or substantive questions concerning comments on those measures should be directed to Jeff Weiss, Senior Director, Technical Barriers to Trade, USTR (202–395–4498).

SUPPLEMENTARY INFORMATION: The NTE sets out an inventory of the most important foreign barriers affecting U.S. exports of goods and services, U.S. foreign direct investment, and protection of intellectual property rights. The inventory facilitates U.S. negotiations aimed at reducing or eliminating these barriers. The report also provides a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. The 2009 NTE may be found on USTR's Internet Home Page (*http://www.ustr.gov*) under the tab ''Reports.''

The Administration has recently announced new initiatives to direct Executive Branch trade priorities to barriers of greatest significance for U.S. exports, investment, and intellectual property rights. To ensure compliance with the NTE's statutory mandate and the Obama Administration's

commitment to focus on the most significant foreign trade barriers, USTR will be guided by the existence of active private sector interest in deciding which restrictions to include in the NTE. The two new reports that USTR will initiate in 2010 will draw attention to significant trade barriers in the form of SPS and standards-related measures.

Topics on which the TPSC Seeks Information: To assist USTR in preparing the NTE and the reports on SPS and standards-related measures, commenters should submit information related to one or more of the following categories of foreign trade barriers:

(1) Import policies (*e.g.,* tariffs and other import charges, quantitative restrictions, import licensing, and customs barriers);

(2) SPS measures;

(3) Standards-related measures (including standards, technical regulations, and conformity assessment procedures);

(4) Government procurement restrictions (*e.g.,* ''buy national'' policies and closed bidding);

(5) Export subsidies (*e.g.,* export financing on preferential terms and agricultural export subsidies that displace U.S. exports in third country markets);

(6) Lack of intellectual property protection (*e.g.,* inadequate patent, copyright, and trademark regimes);

(7) Services barriers (*e.g.,* limits on the range of financial services offered by foreign financial institutions, regulation of international data flows, restrictions on the use of data processing, quotas on imports of foreign films, and barriers to the provision of services by professionals);

(8) Investment barriers (*e.g.,* limitations on foreign equity participation and on access to foreign government-funded R&D consortia, local content, technology transfer and export performance requirements, and restrictions on repatriation of earnings, capital, fees, and royalties);

(9) Government-tolerated anticompetitive conduct of state-owned or private firms that restricts the sale or purchase of U.S. goods or services in the foreign country's markets;

(10) Trade restrictions affecting electronic commerce (*e.g.,* tariff and non-tariff measures, burdensome and discriminatory regulations and standards, and discriminatory taxation); and

(11) Other barriers (*e.g.,* barriers that encompass more than one category, such as bribery and corruption, or that affect a single sector).

Reports on SPS and Standards-Related Measures: On July 16, 2009, USTR announced plans to begin publishing two new reports on foreign trade barriers—one on SPS measures and the other on standards-related measures. These reports—to be issued annually starting in 2010—will serve as tools to bring greater attention and focus to resolving SPS and standards-related measures that may be inconsistent with international trade agreements to which the United States is a party or that otherwise act as significant foreign barriers to U.S. exports. See *http://www.ustr.gov/about-us/press-office/fact-sheets/2009/july/trade-policy-breaking-down-barriers-trade.* USTR plans to use comments on SPS and standards-related measures (items 2 and 3 in the list above) submitted pursuant to this notice in developing these two new reports. To help USTR identify SPS and standards-related measures to include in the new reports, comments concerning those measures should be submitted separately from those addressing other foreign trade barriers. (See below).

The following information describing SPS and standards-related measures may help commenters to file submissions on particular foreign trade barriers under the appropriate docket.

SPS Measures: Generally, SPS measures are measures applied to protect the life or health of humans, animals, and plants from risks arising from additives, contaminants, pests, toxins, diseases, or disease-carrying and causing organisms. SPS measures can take such forms as specific product or processing standards, requirements for products to be produced in disease-free areas, quarantine regulations, certification or inspection procedures, sampling and testing requirements, health-related labeling measures, maximum permissible pesticide residue levels, and prohibitions on certain food additives.

Standards-Related Measures: Standards-related measures comprise standards, technical regulations, and conformity assessment procedures, such as mandatory process or design standards, labeling or registration requirements, and testing or certification procedures. Standards-related measures can be applied not only to industrial products but to agricultural products as well, such as food nutrition labeling schemes and food quality or identity requirements.

For further information on SPS and standards-related measures and additional detail on the types of comments that would assist USTR in identifying and addressing significant trade-restrictive SPS and standards-related measures, please see ''Supporting & Related Materials'' under dockets USTR–2009–0031 and USTR–2009–0032 at *www.regulations.gov.*

In responding to this notice with respect to any of the three reports, commenters should place particular emphasis on any practices that may violate U.S. trade agreements. The TPSC is also interested in receiving new or updated information pertinent to the barriers covered in the 2009 NTE as well as reports of new barriers. If USTR does not include in the NTE or the reports on SPS and standards-related measures information that it receives pursuant to this notice, it will maintain the information for potential use in future discussions or negotiations with trading partners.

Estimate of Increase in Exports: Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any foreign trade barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate. Estimates should be expressed within the following value ranges: Less than $5 million; $5 to $25 million; $25 million to $50 million; $50 million to $100 million; $100 million to $500 million; or over $500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

Requirements for Submissions: Commenters providing information on foreign trade barriers in more than one country should, whenever possible, provide a separate submission for each country. Comments addressing SPS or standards-related measures should be submitted separately from comments on other trade barriers.

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. Comments should be submitted under one of the following dockets (depending on the subject of the comment):

SPS Measures: USTR–2009–0031.

Standards-Related Measures: USTR–2009–0032.

All Other Measures: USTR–2009–0033.

To find these dockets, enter the pertinent docket number in the ''Enter Keyword or ID'' window at the *www.regulations.gov* home page and click ''Search.'' The site will provide a search-results page listing all documents associated with that docket number. Find a reference to this notice by selecting ''Notices'' under ''Document Type'' on the search-results page, and click on the link entitled ''Submit a Comment.'' (For further information on

using the *www.regulations.gov* Web site, please consult the resources provided on the website by clicking on the ''Help'' tab.)

The *www.regulations.gov* Web site provides the option of making submissions by filling in a comments field, or by attaching a document. USTR prefers submissions to be provided in an attached document. If a document is attached, please identify the name of the country to which the submission pertains in the ''Comments'' field. For example: ''See attached comment for (name of country)''. If the comment is related to SPS or standards-related measures, type ''See attached comment on SPS measures for (name of country)'' or ''See attached comment on standards-related measures for (name of country)''. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Comments'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. The top of any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL''. Any person filing comments that contain business confidential information must also file in a separate submission a public version of the comments. The file name of the public version of the comments should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. If a comment contains no business confidential information, the file name should begin with the character ''P'', followed by the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. E9–23012 Filed 9–23–09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Tier 1 Environmental Impact Statement for the Empire Corridor High Speed Rail Program From New York City to Niagara Falls, NY

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: FRA is issuing this notice to advise the public that FRA with the New York State Department of Transportation (NYSDOT) will jointly prepare a Tier 1 Environmental Impact Statement (EIS) for the Empire Corridor High Speed Rail (HSR) Program in compliance with relevant State and Federal laws, in particular the National Environmental Policy Act (NEPA) and the State Environmental Quality Review Act (SEQR). FRA is also issuing this notice to solicit public and agency input into the development of the scope of the Empire Corridor HSR Program EIS and to advise the public that outreach activities conducted by the NYSDOT and its representatives will be considered in the preparation of the EIS. The objective of the tiered EIS is to evaluate alternatives and make corridor level decisions regarding the level of intercity passenger rail service provided in the corridor, including variations in train frequency, trip time, and on-time performance.

DATES: Letters describing the proposed project and soliciting comments were sent to appropriate Federal, State, and local agencies, and appropriate railroads. Written comments on the scope of the Empire Corridor HSR Program EIS should be provided to NYSDOT by October 30, 2009. A public scoping meeting is scheduled for September 24, 2009, from 1:30 to 2:30 p.m., at 50 Wolf Road, Conference Rooms A, B and C on the first floor, Albany, NY 12232 for the purpose of introducing the proposed project to regulatory agencies and other interested parties. No formal NEPA scoping meeting is planned. A series of public information meetings will be held in Eastern and Western New York in November and December 2009. Public notices will be given of the time and place of the meetings.

ADDRESSES: Written comments on the scope of this EIS should be addressed to: Ann R. Purdue, High Speed Rail Program Manager, New York State Department of Transportation, 50 Wolf Road POD 6–4, Albany, NY 12232, or via e-mail with the subject line, ''Empire Corridor HSR'' to: *apurdue@dot.state.ny.us*. Comments may also be provided orally or in writing at the scoping meeting on September 24, 2009, at 50 Wolf Road, Conference Rooms A, B and C, Albany, New York 12232.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Elefante DuMond, Environmental Protection Specialist, Office of Railroad Development, Federal Railroad Administration, 1200 New Jersey Avenue, SE. (Mail Stop 20), Washington, DC 20590; Telephone (202) 493–6366, or Ann R. Purdue, High Speed Rail Program Manager, New York State Department of Transportation, 50 Wolf Road POD 6–4, Albany, NY, Telephone (518) 457–0607.

SUPPLEMENTARY INFORMATION: The FRA, in cooperation with the New York State Department of Transportation (NYSDOT), will prepare a tiered Environmental Impact Statement (EIS) that will study and document proposed improvements to intercity passenger rail services along the 463-mile Empire Corridor, beginning at Penn Station in New York City, New York County and proceeding north to Poughkeepsie (Dutchess County) and Albany (Albany County) then turning west to Schenectady (Schenectady County), Utica (Oneida County), Syracuse (Onondaga County), Rochester (Monroe County), Buffalo (Erie County) and terminating at Niagara Falls (Niagara County).

Purpose and Need: In 2008, Amtrak carried 315.79 million passenger miles along the Empire Corridor. However, overall on-time performance (OTP) for Amtrak in 2008 was poor, with 68% OTP for trains operating between Penn Station and Albany-Rensselaer, and OTP of 41% for trains operating between Penn Station and Niagara Falls. Trip times are competitive with automobile and air travel between Penn Station and Albany-Rensselaer, but are considerably slower in the Penn Station to Niagara Falls market. Mobility choices were limited, primarily west of Albany, due to limited train frequency. Poor on-time performance, non-competitive trip times, and infrequent service are all factors known to adversely affect passenger rail ridership.

The 2009 New York State Rail Plan identified a need for improvements to passenger rail services as a means to reduce highway congestion, reduce airport congestion, reduce greenhouse gas emissions, and limit the consumption of fossil fuels, and to support economic growth and smart land use development. The New York

State Rail Plan also identified several potential investments to expand, enhance and grow intercity passenger rail services in the Empire HSR corridor. The FRA and NYSDOT will establish specific goals for train frequency, trip time, and on-time performance on a corridor-wide basis and identify the operational changes and investments in infrastructure and equipment necessary to achieve those goals.

Environmental Review Process: The EIS will be developed in accordance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, and the New York State Environmental Quality Review Act (SEQR), 17 NYCRR Part 15. The FRA and the NYSDOT will use a tiered process, as provided for in 40 CFR 1508.28 and in accordance with FRA regulations, in the completion of the environmental review of the Project. ''Tiering'' is a staged environmental review process applied to environmental reviews for complex projects. The initial phase (''Tier 1 EIS'') of this process will address broad corridor-level issues and proposals. Subsequent phases or tiers will analyze, at a greater level of detail, narrower site-specific proposals based on the decisions made in Tier 1.

Tier 1: Although open to refinement based on public and agency review and comment, the Tier 1 assessment will result in a NEPA and SEQR document with the appropriate level of detail for corridor-level decisions and will address broad overall issues of concern, including but not limited to:

- Confirm the purpose and need for the proposed action.
- Define the study area appropriate to assess reasonable alternatives.
- Identify a comprehensive set of goals and objectives for the corridor in conjunction with Stakeholders and Steering Committee members. These goals and objectives will be crafted to allow comprehensive evaluation of all aspects of the project necessary to achieve the goals, including train operations, vehicles and infrastructure.
- Identify the range of reasonable alternatives to be considered, consistent with the current and planned use of the corridor and the existing services within and adjacent to the study area.
- Develop criteria and screen alternatives to eliminate those that do not meet the purpose and need of the proposed action.
- Identify the general alignment(s) of the reasonable alternatives.
- Identify right-of-way requirements for the reasonable alternatives.
- Identify the infrastructure and equipment investment requirements for the reasonable alternatives.
- Identify the operational changes required for the reasonable alternatives.
- Describe the environmental impacts associated with proposed changes in passenger rail train frequency, speed, and on-time performance.
- Characterize the environmental consequences of the reasonable alternatives.
- Establish the timing and sequencing of independent actions to maintain a state of good repair and to implement the proposed action.

Tier 2: The second tier assessment will address component projects to be implemented within the general corridor identified in the Tier 1 EIS, and incorporate by reference the data and evaluations included in the Tier 1 EIS. Subsequent evaluations will concentrate on the issues specific to the component of the selected alternative identified in the Tier 1 EIS; determine the project alternative that best meets the purpose and need for each proposed action; and identify the environmental consequences and measures necessary to mitigate environmental impacts at a site-specific level of detail.

Scoping and Comments: FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documents. Comments and suggestions are invited from all interested agencies and the public at large to insure the full range of issues related to the proposed action and all reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in determining whether there are areas of environmental concern where there might be the potential for significant impacts identifiable at a corridor level. Letters describing the proposed project and soliciting comments were sent to appropriate Federal, State, and local agencies, and appropriate railroads. Public agencies with jurisdiction are requested to advise the FRA and NYSDOT of the applicable environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed project.

A public scoping meeting is scheduled for September 24, 2009, from 1:30 to 2:30 p.m., at 50 Wolf Road, Conference Rooms A, B and C on the first floor, Albany, NY 12232 for the purpose of introducing the proposed project to regulatory agencies and other interested parties. No formal NEPA scoping meeting is planned. A series of public information meetings will be held in Eastern and Western New York in November and December 2009. Public notices will be given of the time and place of the meetings.

Persons interested in providing comments on the scope of the Tier 1 EIS should do so by October 30, 2009. Comments can be sent in writing to Ms. Melissa Elefante DuMond at the FRA address identified above. Comments may also be addressed to Ms. Ann R. Purdue, of NYSDOT, at the address identified above.

Issued in Washington, DC, on September 18, 2009.

Mark E. Yachmetz,

Associate Administrator for Railroad Development, Federal Railroad Administration.

[FR Doc. E9–23002 Filed 9–23–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for the California High-Speed Train Project From Los Angeles to San Diego via the Inland Empire, CA

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: This notice is to advise the public that FRA and the California High-Speed Rail Authority (Authority) will jointly prepare a project Environmental Impact Statement (EIS) and project Environmental Impact Report (EIR) for the Los Angeles to San Diego (LA–SD) Section of the Authority's proposed California High-Speed Train (HST) System in compliance with relevant State and Federal laws, in particular the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA).

In 2001, the Authority and FRA started a tiered environmental review process for the HST system and in 2005, completed the first tier California High-Speed Train Program EIR/EIS (Statewide Program EIR/EIS) and approved the statewide HST System for intercity travel in California between the major metropolitan centers of Sacramento and the San Francisco Bay Area in the north, through the Central Valley, to Los Angeles and San Diego in the south. The approved HST System would be about 800 miles long, with electric propulsion and steel-wheel-on-steel-rail trains capable of maximum operating speeds of 220 miles per hour (mph) on a mostly dedicated steel-

wheel-on-steel rail system of fully grade-separated, access controlled track with state-of-the-art safety, signaling, communication, and automated train control systems. In approving the HST System, the Authority and FRA also selected corridors/general alignments and station location options throughout most of the system. In 2008, the Authority and FRA completed a second program EIR/EIS to evaluate and select general alignments and station locations within the broad corridor between and including the Altamont Pass and the Pacheco Pass to connect the Bay Area and Central Valley portions of the HST System. The preparation of the LA–SD HST Project EIR/EIS will involve the development of preliminary engineering designs and the assessment of potential environmental effects associated with the construction, operation, and maintenance of the HST system, including track and ancillary facilities along the Union Pacific Railroad Company (UPRR)/Interstate 215/ Interstate 15 corridor from Los Angeles to San Diego.

DATES: Written comments on the scope of the LA–SD HST Project EIR/EIS should be provided to the Authority by 5 p.m., Friday, November 20, 2009. Public scoping meetings are scheduled from October 13, 2009, to November 3, 2009, as noted below in the cities of San Diego, Escondido, Murrieta, Corona, Monterey Park, Riverside, West Covina, El Monte, Pomona, Ontario, and San Bernardino, California.

ADDRESSES: Written comments on the scope of this EIR/EIS should be sent to Mr. Dan Leavitt, Deputy Director, ATTN: LA–SD HST Project EIR/EIS, California High-Speed Rail Authority, 925 L Street, Suite 1425, Sacramento, CA 95814, or via e-mail with subject line ''LA–SD HST Section via the Inland Empire'' to: *comments@hsr.ca.gov*. Comments may also be provided orally or in writing at the scoping meetings scheduled from 3 p.m. to 7 p.m. at the following locations:

San Diego County

- October 13, 2009—Lawrence Family Jewish Community Center, 4126 Executive Drive, La Jolla, CA 92037.
- October 14, 2009—Ramada Limited San Diego Airport, 1403 Rosecrans Street, San Diego, CA 92106.
- October 15, 2009—Escondido Center for the Arts, 340 N. Escondido Blvd., Escondido, CA 92025.

Riverside County

- October 19, 2009—Murrieta Public Library, Eight Town Square, 24700 Adams Avenue, Murrieta, CA 92562.
- October 20, 2009—Corona Public Library, West Room, 650 S. Main Street, Corona, CA 92882.
- October 22, 2009—Cesar Chavez Community Center, Bobby Bonds Park, 2060 University Avenue, Riverside, CA 92507.

Los Angeles County

- October 21, 2009—Shepherd of the Hills United Methodist Church, Wesley Fellowship Hall, 333 South Garfield Avenue, Monterey Park, CA 91754.
- October 26, 2009—City of West Covina City Hall, Community Room, First Floor, 1444 West Garvey Avenue, West Covina, CA 91790.
- October 28, 2009—El Monte Community Center Grace T. Black Auditorium, 3130 Tyler Avenue, El Monte, California 91731.
- October 29, 2009—Pomona First Baptist Church, Room E–202, 586 N. Main Street, Pomona, California 91768.

San Bernardino County

- November 2, 2009—Ontario Airport Administrative Conference Rooms, 1923 E. Avion Street, Ontario, CA 91764.
- November 3, 2009—Norman Feldheym Central Library, Kellogg Room, 555 West 6th Street, San Bernardino, CA 92410.

Two regulatory agency scoping meetings have been scheduled on the following dates and times:

- U.S. Fish and Wildlife Service, 6010 Hidden Valley Road, Room 1, Carlsbad, CA 92011. October 15, 2009 from 9 a.m. to 12 noon.
- California Regional Water Quality Control Board, Santa Ana Region 8, Highgrove Room, 3737 Main Street, Suite 500, Riverside, CA 92501–3348. October 22, 2009 from 9 a.m. to 12 noon.

FOR FURTHER INFORMATION CONTACT: Mr. David Valenstein, Environmental Program Manager, Office of Railroad Development, Federal Railroad Administration, 1200 New Jersey Avenue, SE. (Mail Stop 20), Washington, DC 20590; (telephone: (202) 493–6368); or Mr. Dan Leavitt, Deputy Director, ATTN: LA–SD HST Project EIR/EIS, California High-Speed Rail Authority, 925 L Street, Suite 1425, Sacramento, CA 95814 (telephone: (916) 324–1541)).

SUPPLEMENTARY INFORMATION: The Authority was established in 1996 and is authorized and directed by statute to undertake the planning and development of a proposed statewide HST network that is fully coordinated with other public transportation services. The Authority adopted a Final Business Plan in June 2000, which reviewed the economic feasibility of an 800-mile-long HST capable of speeds in excess of 200 miles per hour on a mostly dedicated, fully grade-separated state-of-the-art track. The Authority released an updated Business Plan in November 2008.

The FRA has responsibility for overseeing the safety of railroad operations, including the safety of any proposed high-speed ground transportation system. FRA is also authorized to provide Federal funding for intercity passenger rail capital investments, including high-speed rail. For the proposed HST, it is anticipated that FRA would need to take certain regulatory actions prior to operation and may provide financial assistance for the project including grant funding.

In 2005, the Authority and FRA completed the Statewide Program EIR/ EIS for the Proposed California High Speed Train System, as the first phase of a tiered environmental review process. The Authority certified the Statewide Program EIR under CEQA and approved the proposed HST System. FRA issued a Record of Decision on the Statewide Program EIR/EIS as required under NEPA. The Statewide Program EIR/EIS established the purpose and need for the HST system, and compared the proposed HST System with a No Project/No Action Alternative and a Modal Alternative. In approving the Statewide Program EIR/EIS, the Authority and FRA selected the HST Alternative, selected certain corridors/ general alignments and general station locations for further study, incorporated mitigation strategies and design practices, and specified further measures to guide the development of the HST System during the site-specific project-level environmental review to avoid and minimize potential adverse environmental impacts. In the Statewide Program EIR/EIS, the Authority and FRA selected the UPRR/I–215/I–15 corridor for the LA–SD via the Inland Empire section of the HST.

The LA–SD HST Project EIR/EIS will tier from the Statewide Program EIR/EIS in accordance with Council on Environmental Quality (CEQ) regulations, (40 CFR 1508.28) and State CEQA Guidelines (14 California Code of Regulations 15168(b)). Tiering ensures that the LA–SD HST Project EIR/EIS builds upon program analysis and decisions made with the Statewide Program EIR/EIS.

The Project EIR/EIS will describe site-specific environmental impacts, identify specific mitigation measures to address those impacts, and incorporate design features to avoid and minimize potential

adverse environmental impacts. The FRA and the Authority will assess the site characteristics, size, nature, and timing of the proposed project to determine whether the impacts are potentially significant and whether impacts can be avoided or mitigated. This project EIR/EIS will identify and evaluate reasonable and feasible site-specific alignment alternatives, and evaluate the impacts of construction, operation, and maintenance of the HST System. Information and documents regarding this HST environmental review process will be made available through the Authority's Internet site: *http://www.cahighspeedrail.ca.gov/*.

Purpose and Need: The purpose of the proposed HST System is to provide a new mode of high-speed intercity travel that would link major metropolitan areas of the State; interface with airports, mass transit, and highways; and provide added capacity to meet increased intercity travel demand in California in a manner sensitive to and protective of California's unique natural resources. The need for a HST System is directly related to the expected growth in population, and increases in intercity travel demand in California over the next twenty years and beyond. With the growth in travel demand, there will be an increase in travel delays arising from the growing congestion on California's highways and at its airports. In addition, there will be negative effects on the economy, quality of life, and air quality in and around California's metropolitan areas from an increasingly congested transportation system that will become less reliable as travel demand increases. The intercity highway system, commercial airports, and conventional passenger rail serving the intercity travel market are currently operating at or near capacity, and will require large public investments for maintenance and expansion to meet existing demand and future growth. The proposed HST System is designed to address some social, economic and environmental problems associated with transportation congestion in California.

Alternatives: The LA–SD HST Project EIR/EIS will consider a No Action or No Project Alternative and an HST Alternative for the LA–SD via the Inland Empire section.

No Action Alternative: The No Action Alternative (No Project or No Build) represents the conditions in the corridor as it existed in 2009, and as it would exist based on programmed and funded improvements to the intercity transportation system and other reasonably foreseeable projects through 2035, taking into account the following sources of information: the State Transportation Improvement Program (STIP) and Regional Transportation Plans (RTPs) for all modes of travel, airport plans, intercity passenger rail plans, city and county plans.

HST Alternative: The Authority proposes to construct, operate and maintain an electric-powered steel-wheel-on-steel-rail HST System, about 800 miles long, capable of operating speeds of 220 mph on mostly dedicated, fully grade-separated, access controlled tracks, with state-of-the-art safety, signaling, communication and automated train control systems. In the Statewide Program EIR/EIS, the Authority and FRA selected the Inland Empire alignment, which was divided into three segments: (1) Los Angeles to March Air Reserve Base (ARB); (2) March ARB to Mira Mesa; and (3) Mira Mesa to San Diego. Between LA Union Station and March ARB, the selected alignment generally follows the UPRR Riverside/Colton corridor. From March ARB to Mira Mesa the selected I–215/I–15 alignment generally follows the I–215 and then the I–15 corridor to Mira Mesa. There are two alignment options along Carroll Canyon and Miramar Road that would directly serve downtown San Diego. Both the Carroll Canyon and Miramar Road alignment options between Mira Mesa and San Diego are preferred for further investigation.

Since 2008, the Authority has collaborated with the Southern California High-Speed Rail Inland Corridor Group (SoCal ICG), which was formed by a Memorandum of Understanding (MOU) signed by the Authority and Southern California Association of Governments, San Diego Association of Governments, San Bernardino Associated Governments, the Riverside County Transportation Commission and the San Diego County Regional Airport Authority. One of the purposes of the SoCal ICG is to demonstrate partnership with regional entities and to assist the Authority with the review of the Program EIR/EIS alternative alignments and station locations and in identifying additional alternative project alignments and optional station locations to be studied in the LA–SD Project EIR/EIS. The Authority has consulted with the SoCal ICG on a monthly basis since the summer of 2008.

To support the Project EIR/EIS process, the SoCal ICG partner agencies formed four Technical Working Groups (TWGs) in Los Angeles, Riverside, San Bernardino, and San Diego Counties to assist the Authority in refining the programmatic LA–SD alignment adopted in 2005. The TWGs met with the Authority in November 2008, February 2009 and July/August 2009 to discuss additional alternative alignments and optional station locations to be further considered in the Project EIR/EIS along with the alignment alternatives and station locations selected with the Program EIR/EIS.

These alternative project alignments include: alternatives to the UPRR Riverside/Colton alignment in Los Angeles County and San Bernardino County along the Metrolink, I–10, I–605, Holt Avenue and State Route 60 (SR–60) corridors, an alternative alignment along the I–15 corridor through San Bernardino County and Riverside County, and an alternative alignment west of the University City corridor in San Diego County. Engineering studies will be undertaken as part of this Project EIR/EIS that will examine and refine alignments in the UPRR/I–215/I–15 corridor. The entire alignment would be grade-separated from existing roadways. The options to be considered for the design of grade-separated roadway crossings would include (1) depressing the street to pass under the rail line; (2) elevating the street to pass over the rail line; and (3) leaving the street as-is and constructing rail line improvements to pass over or under the local street. In addition, alternative sites for right-of-way maintenance, train storage facilities and a train service and inspection facility will be evaluated in the LA–SD Section project area.

Preferred station locations selected by the Authority and FRA through the Statewide Program EIR/EIS will be evaluated in the LA–SD HST Project EIR/EIS. These stations are East San Gabriel Valley Station in City of Industry, Ontario Airport Connector Station, and Riverside County/East San Bernardino County near the University of California Riverside. Station locations from Murrieta to San Diego include the Temecula Valley Station in Murrieta at the I–15/I–215 interchange, Escondido Station Area along the I–15, Mid-San Diego County Station at University City, and San Diego Station-Downtown at the Santa Fe Depot. As part of the early agency outreach and input from the TWGs, the following alternative station locations were identified for further evaluation: El Monte, West Covina, and Pomona via the I–605, Holt Avenue, and I–10 corridors; San Bernardino via the SANBAG/Metrolink corridor; Riverside-UCR, Riverside-March ARB, and Murrieta via the I–215 corridor; Corona and Escondido Transit Center via the I–15 corridor, University Towne Center via the University City corridor; and San Diego International Airport at Lindbergh Field.

Probable Effects: The purpose of the EIR/EIS process is to evaluate, in a public setting, the potential effects of the proposed project on the physical, human, and natural environment. The FRA and Authority will continue the tiered evaluation of significant environmental, social, and economic impacts of the construction and operation of the LA–SD Section of the HST System. Impact areas to be addressed include transportation impacts; safety and security; land use and zoning; land acquisition, displacements, and relocations; cumulative and secondary impacts; agricultural land impacts; cultural resources impacts, including impacts on historical and archaeological resources and parklands/recreation areas; neighborhood compatibility and environmental justice; natural resource impacts including air quality, wetlands, water resources, noise, vibration, energy, wildlife and ecosystems, including endangered species. Measures to avoid, minimize, and mitigate adverse impacts will be identified and evaluated.

The LA–SD HST Project EIR/EIS will be prepared in accordance with FRA's Procedures for Considering Environmental Impacts (64 FR 28545 (May 26, 1999)) and will address, as necessary, other applicable statutes, regulations, and executive orders, including the Clean Air Act, Section 404 of the Clean Water Act, Section 106 of the National Historic Preservation Act of 1966, Section 4(f) of the Department of Transportation Act, the Endangered Species Act, and Executive Order 12898 on Environmental Justice.

This EIR/EIS process will also continue the NEPA/Clean Water Act Section 404 integration process established through the Statewide Program EIR/EIS process. The EIR/EIS will evaluate project alignment alternatives, and station and maintenance facility locations to support a determination of the Least Environmentally Damaging Practicable Alternative (LEDPA) by the U.S. Army Corps of Engineers.

Scoping and Comments: FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documents. Comments are invited from all interested agencies and the public to ensure the full range of issues related to the proposed action and reasonable alternatives are addressed and all significant issues are identified. In particular, FRA is interested in learning whether there are areas of environmental concern where there might be a potential for significant site-specific impacts from the LA–SD Section of the HST System. Public agencies with jurisdiction are requested to advise FRA and the Authority of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information germane to the agency's statutory responsibilities relevant to the proposed project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed project and if they wish to cooperate in the preparation of the Project EIR/EIS. Public scoping meetings have been scheduled as an important component of the scoping process for both the State and Federal environmental review. The scoping meetings described in this Notice will also be the subject of additional public notification.

FRA is seeking participation and input of all interested Federal, State, and local agencies, Native American groups, and other concerned private organizations or individuals on the scope of the EIR/EIS. Implementation of the LA–SD Section of the HST System is a Federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f). In accordance with regulations issued by the Advisory Council on Historic Preservation, 36 CFR part 800, FRA intends to coordinate compliance with Section 106 of this Act with the preparation of the EIR/EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8.

Issued in Washington, DC on September 18, 2009.

Mark E. Yachmetz,

Associate Administrator for Railroad Development, Federal Railroad Administration.

[FR Doc. E9–23003 Filed 9–23–09; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of the Noise Compatibility Program for the Kansas City International Airport, Kansas City, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program (NCP) submitted by the Kansas City Aviation Department for the Kansas City International Airport under the provisions of 49 U.S.C. 47501 *et seq.* (formerly the Aviation Safety and Noise Abatement Act, hereinafter referred to as ''the Act'') and 14 Code of Federal Regulations (CFR) Part 150 (hereinafter referred to as ''Part 150''). On March 20, 2009, the FAA determined that the Noise Exposure Maps (NEM) submitted by the Kansas City Aviation Department under Part 150 were in compliance with applicable requirements. On September 14, 2009, the FAA approved the Kansas City International Airport noise compatibility program. All but two of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

DATES: The effective date of the FAA's approval of the Noise Compatibility Program for Kansas City International Airport is September 14, 2009.

FOR FURTHER INFORMATION CONTACT: Todd Madison, 901 Locust, Kansas City, Missouri, 64106–2325, *todd.madison@faa.gov,* (816) 329–2640. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Kansas City International Airport, effective September 14, 2009.

Under section 47504 of the Act, an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of Part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in Part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required. Prior to an FAA decision on a request to implement the action, an environmental review of the proposed action may be required. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under applicable law contained in Title 49 U.S.C. Where federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Kansas City, Missouri.

The Kansas City International Airport study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from March 6, 2009, beyond the year 2013. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 47504 of the Act. The FAA began its review of the program on March 20, 2009, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new or modified flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained eighteen proposed actions for noise abatement, land use planning and program management on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and Part 150 have been satisfied. The overall program was approved by the FAA, effective September 14, 2009.

Outright approval was granted for fourteen specific program measures. Two Noise Abatement Measures were approved by the FAA as voluntary measures only when weather and air traffic conditions permit. These procedures appear to apply to all aircraft at all times and are general ''good-neighbor'' guidance to pilots of these aircraft types. Approval of specific language for inclusion or amendment to FAA tower procedures is subject to separate FAA approval, and implementation requires an environmental analysis. Noise Abatement Measure One (NAM–1) is an informal preferential runway use program to favor north flow. Noise Abatement Measure Two (NAM–2) is a nighttime (10 p.m. to 6 a.m.) informal preferential runway use program involving landings on Runway 1L and 19L and takeoffs on Runways 1R and 19R.

Seven Land Use Management Measures were approved by the FAA. Land Use Management Measure Four (LUMM–4) was approved to expand the *KCI General Development and Land Use Plan* to include land south of Barry Road (City of Kansas City action). Land Use Management Measure Eight (LUMM–8) was approved to rezone land acquired by Kansas City Aviation Department to GP–8, airport and conservation (City of Kansas City action). Land Use Management Measure Twenty (LUMM–20) was approved to establish Airport Compatibility Overlay Districts with five tiered land use management zones within Kansas City (City of Kansas City action). Land Use Management Measure Twenty-one (LUMM–21) was approved to establish Airport Compatibility Overlay District with three tiered land use management zones within unincorporated Platte County (Platte County action). Land Use Management Measure Twenty-two (LUMM–22) was approved to establish Airport Compatibility Overlay Districts with land use management zones within Platte City (Platte City action). Land Use Management Measure Twenty-three (LUMM–23) was approved to acquire portions of four agriculturally-used parcels containing approximately 400 acres of vacant land located within the 2013 NCP 65 Day-Night Average Sound Level (DNL) contour and located on the north side of Interstate-29 (Kansas City Aviation Department action). Land Use Management Measure Twenty-four (LUMM–24) was approved to acquire one property of approximately 17 acres surrounded by airport property (Kansas City Aviation Department action). In the FAA's approval of the preceding Land Use Management Measures, the FAA noted the following: The local governments have the authority to implement this measure; The Federal government has no authority to control local land uses; This approval is limited to potential noncompatible land uses within the DNL 65 dB and higher noise contours; and, The local jurisdictions have the authority to pursue proposed land use controls for areas below the 65 DNL noise contour.

Two Land Use Management Measures were disapproved by the FAA. Land Use Management Measure Twenty-five (LUMM–25) was disapproved to acquire one parcel of approximately 60 acres lying within that area subject to 65 DNL for the combined north and south flow traffic conditions and located between the south boundary of the airport property and the north boundary of Tiffany Springs Park and west of NW Hampton Road (Kansas City Aviation Department action). LUMM–25 was disapproved for purposes of Part 150 because the parcel of land is not within the average annual day 65 DNL on either the existing 2008 NEM or the 2013 forecast NEM. Land Use Management Measure Twenty-six (LUMM–26) was disapproved to encourage Kansas City Parks and Recreation to acquire approximately 143 acres as shown for inclusion as part of the Tiffany Springs Park Master Plan (Kansas City Aviation Department action). LUMM–26 was disapproved for purposes of Part 150 because the parcel of land is not within the average annual day 65 DNL on either the existing 2008 NEM or the 2013 forecast NEM.

Seven Program Management Measures were approved by the FAA. Program Management Measure One (PMM–1) was approved to maintain a system for receiving and responding to noise complaints (Kansas City Aviation Department). Program Management Measure Four (PMM–4) was approved to designate airport staff position as liaison contact for noise and land use coordination with planning agencies (Kansas City Aviation Department). Program Management Measure Five

(PMM–5) was approved to designate planning staff position as liaison contact for noise and land use coordination with Airport (Kansas City Planning Department, Platte County Planning, and Platte City Planning). Program Management Measure Six (PMM–6) was approved to implement a review process for development proposals within the land use compatibility zones approved within any jurisdiction (Kansas City Aviation Department, Kansas City Planning Department, Platte County Planning, and Platte City Planning). Program Management Measure Seven (PMM–7) was approved to initiate an update of the Noise Exposure Maps every five years or when equivalent (daytime + ten times nighttime) operations grow more than 17 percent above 2006 levels (Kansas City Aviation Department). Program Management Measure Eight (PMM–8) was approved to initiate an update of the Noise Compatibility Program every ten years or when/if equivalent (daytime + ten times nighttime) operations in any single year exceed that year's forecasts by more than 40 percent (Kansas City Aviation Department), and the FAA noted in its approval that in addition to the Part 150 regulation's requirement to update NEMs when noise significantly increases, Part 150 also requires NEM amendments if noise significantly decreases (14 CFR 150.21(d)). Program Management Measure Nine (PMM–9) was approved to establish an environmental information page on the airport web Site, and the approval was limited to Part 150 information because Environmental Assessment and Environmental Impact Statement information is not approvable for purposes of Part 150.

These determinations are set forth in detail in a Record of Approval signed by Jim A. Johnson, FAA Central Region Airports Division Manager, on September 14, 2009. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the Kansas City Aviation Department. The Record of Approval also will be available on-line at: *http://www.faa.gov/airports/environmental/airport_noise/part_150/states/.*

Issued in Kansas City, Missouri, on September 15, 2009.

Jim A. Johnson,

Manager, FAA Central Region Airports Division.

[FR Doc. E9–23106 Filed 9–23–09; 8:45 am]

BILLING CODE P

Federal Register

Thursday,
September 24, 2009

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[FWS–R9–MB–2008–0124]
[91200–1231–9BPP–L2]

RIN 1018–AW31

Migratory Bird Hunting; Final Frameworks for Late-Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service or we) prescribes final late-season frameworks from which States may select season dates, limits, and other options for the 2009–10 migratory bird hunting seasons. These late seasons include most waterfowl seasons, the earliest of which commences on September 26, 2009. The effect of this final rule is to facilitate the States' selection of hunting seasons and to further the annual establishment of the late-season migratory bird hunting regulations.

DATES: This rule takes effect on September 24, 2009.

ADDRESSES: States and Territories should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, ms MBSP-4107-ARLSQ, 1849 C Street, NW., Washington, DC 20240. You may inspect comments during normal business hours at the Service's office in room 4107, 4501 N. Fairfax Drive, Arlington, VA, or at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Robert Blohm, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2009

On April 10, 2009, we published in the **Federal Register** (74 FR 16339) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2009–10 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the April 10 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we will omit those items requiring no attention, and remaining numbered items will be discontinuous and appear incomplete.

On May 27, 2009, we published in the **Federal Register** (74 FR 25209) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The May 27 supplement also provided detailed information on the 2009–10 regulatory schedule and announced the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings.

On June 24 and 25, 2009, we held open meetings with the Flyway Council Consultants at which the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2009–10 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands, special September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2009–10 regular waterfowl seasons. On July 24, 2009, we published in the **Federal Register** (74 FR 36870) a third document specifically dealing with the proposed frameworks for early-season regulations. On August 25, 2009, we published in the **Federal Register** (74 FR 43008) a rulemaking establishing final frameworks for early-season migratory bird hunting regulations for the 2009–10 season. Subsequently, on August 31, 2009, we published a final rule in the **Federal Register** (74 FR 45032) amending subpart K of title 50 CFR part 20 to set hunting seasons, hours, areas, and limits for early seasons.

On July 29–30, 2009, we held open meetings with the Flyway Council Consultants, at which the participants reviewed the status of waterfowl and developed recommendations for the 2009–10 regulations for these species. On August 13, 2009, we published in the **Federal Register** (74 FR 41008) the proposed frameworks for the 2009–10 late-season migratory bird hunting regulations. This document establishes final frameworks for late-season migratory bird hunting regulations for the 2009–10 season. There are no substantive changes from the August 13 proposed rule. We will publish State selections in the **Federal Register** as amendments to §§20.101 through 20.107, and 20.109 of title 50 CFR part 20.

Population Status and Harvest

A brief summary of information on the status and harvest of waterfowl excerpted from various reports was included in the August 13 supplemental proposed rule. For more detailed information on methodologies and results, complete copies of the various reports are available at the street address indicated under **ADDRESSES** or from our website at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html*.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the April 10, 2009, **Federal Register**, opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule, which appeared in the May 27, 2009, **Federal Register**, discussed the regulatory alternatives for the 2009–10 duck hunting season. Late-season comments are summarized below and numbered in the order used in the April 10 and May 27 **Federal Register** documents. We have included only the numbered items pertaining to late-season issues for which we received written comments. Consequently, the issues do not follow in direct numerical or alphabetical order.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below.

General

Written Comments: An individual commenter protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and the Flyway Council process. A non-governmental organization supported the continued use of hunting as a significant part of migratory bird management.

Service Response: Our long-term objectives continue to include providing

opportunities to harvest portions of certain migratory game bird populations and to limit annual harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we believe that the hunting seasons provided herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received as public comment. While there are problems inherent with any type of representative management of public-trust resources, we believe that the Flyway Council system of migratory bird management has been a long-standing example of State-Federal cooperative management since its establishment in 1952. However, as always, we continue to explore new ways to streamline and improve the process.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) General Harvest Strategy, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

A. General Harvest Strategy

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended the adoption of the ''liberal'' regulatory alternative.

Service Response: We are continuing development of an Adaptive Harvest Management (AHM) protocol that would allow hunting regulations to vary among Flyways in a manner that recognizes each Flyway's unique breeding-ground derivation of mallards. Last year, we described and adopted a protocol for regulatory decision-making for the newly defined stock of western mallards (73 FR 43290). For the 2009 hunting season, we continue to believe that the prescribed regulatory choice for the Pacific Flyway should be based on the status of this western mallard breeding stock, while the regulatory choice for the Mississippi and Central Flyways should depend on the status of the recently redefined midcontinent mallard stock. We also recommend that the regulatory choice for the Atlantic Flyway continue to depend on the status of eastern mallards.

For the 2009 hunting season, we are continuing to consider the same regulatory alternatives as those used last year. The nature of the ''restrictive,'' ''moderate,'' and ''liberal'' alternatives has remained essentially unchanged since 1997, except that extended framework dates have been offered in the ''moderate'' and ''liberal'' regulatory alternatives since 2002. Also, in 2003, we agreed to place a constraint on closed seasons in the western three Flyways whenever the midcontinent mallard breeding-population size (as defined prior to 2008; traditional survey area plus Minnesota, Michigan, and Wisconsin) was ≥5.5 million.

Optimal AHM strategies for the 2009–10 hunting season were calculated using: (1) Harvest-management objectives specific to each mallard stock; (2) the 2009 regulatory alternatives; and (3) current population models and associated weights for midcontinent, western, and eastern mallards. Based on this year's survey results of 8.71 million midcontinent mallards (traditional survey area minus Alaska plus Minnesota, Wisconsin, and Michigan), 3.57 million ponds in Prairie Canada, 884,000 western mallards (381,000 and 503,000 respectively in California-Oregon and Alaska), and 908,000 eastern mallards, the prescribed regulatory choice for all four Flyways is the ''liberal'' alternative.

Therefore, we concur with the recommendations of the Atlantic, Mississippi, Central, and Pacific Flyway Councils regarding selection of the ''liberal'' regulatory alternative and will adopt the ''liberal'' regulatory alternative, as described in the July 24, 2009, **Federal Register**.

D. Special Seasons/Species Management

iii. Black Ducks

In 2008, U.S. and Canadian waterfowl managers developed an interim harvest strategy that will be employed by both countries until a formal strategy based on the principles of AHM is completed. We detailed this interim strategy in the July 24, 2008, **Federal Register** (73 FR 43290). The interim harvest strategy is prescriptive, in that it calls for no substantive changes in hunting regulations unless the black duck breeding population, averaged over the most recent 3 years, exceeds or falls below the long-term average breeding population by 15 percent or more. The strategy is designed to share the black duck harvest equally between the two countries; however, recognizing incomplete control of harvest through regulations, it will allow realized harvest in either country to vary between 40 and 60 percent.

Each year in November, Canada publishes its proposed migratory bird hunting regulations for the upcoming hunting season. Thus, last fall the Canadian Wildlife Service (CWS) used the interim strategy to establish its proposed black duck regulations for the 2009–10 season based on the most current data available at that time: breeding population estimates for 2006, 2007, and 2008, and an assessment of parity based on harvest estimates for the 2003–07 hunting seasons. Although updates of both breeding population estimates and harvest estimates are now available, the United States will base its 2009–10 black duck regulations on the same data CWS used to ensure comparable application of the strategy. The long-term (1998–2007) breeding population mean estimate is 713,800 and the 2006–08 3–year running mean estimate is 721,600. Based on these estimates, no restriction or liberalization of black duck harvest is warranted. The average proportion of the harvest during the 5–year period 2003–07 was 0.56 in the United States and 0.44 in Canada, and this falls within the established parity bounds of 40 and 60 percent.

iv. Canvasbacks

Council Recommendations: The Atlantic, Central, and Pacific Flyway Councils recommended a full season for canvasbacks with a 1-bird daily bag limit. Season lengths would be 60 days in the Atlantic Flyway, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended use of their alternative canvasback harvest management strategy that uses threshold levels based on breeding population size in order to determine bag limits (detailed in the June 18, 2008, **Federal Register** (73 FR 34692)). Their strategy results in a Council recommendation for a 1-bird daily bag limit and a 60–day season in the Mississippi Flyway.

Service Response: Since 1994, we have followed a canvasback harvest strategy that if canvasback population status and production are sufficient to permit a harvest of one canvasback per day nationwide for the entire length of the regular duck season, while still attaining a projected spring population objective of 500,000 birds, the season on canvasbacks should be opened. A

partial season would be permitted if the estimated allowable harvest was within the projected harvest for a shortened season. If neither of these conditions can be met, the harvest strategy calls for a closed season on canvasbacks nationwide. Last year (73 FR 43290), we announced our decision to modify the Canvasback Harvest Strategy to incorporate the option for a 2-bird daily bag limit for canvasbacks when the predicted breeding population the subsequent year exceeds 725,000 birds.

This year's spring survey resulted in an estimate of 662,000 canvasbacks. This was 35 percent above the 2008 estimate of 489,000 canvasbacks and 16 percent above the 1955–2008 average. The estimate of ponds in Prairie Canada was 3.6 million, which was 17 percent above last year and 5 percent above the long-term average. The canvasback harvest strategy predicts a 2010 canvasback population of 602,000 birds under a ''liberal'' duck season with a 1-bird daily bag limit and 565,000 with a 2-bird daily bag limit. Because the predicted 2010 population under the 1-bird daily bag limit is greater than 500,000, while the prediction under the 2-bird daily bag limit is less than 725,000, the canvasback harvest strategy stipulates a full canvasback season with a 1-bird daily bag limit for the upcoming season.

v. Pintails

Council Recommendations: The Atlantic, Central and Pacific Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended a full season for pintails consisting of a 1-bird daily bag limit and a 60–day season in the Atlantic and Mississippi Flyways and a 74–day season in the Central Flyway, and a 2-bird daily bag limit with a 107–day season in the Pacific Flyway.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council also recommended that the Service evaluate the performance of the prescribed strategy for managing harvest of northern pintails and explain the reasons for implementing the derived strategy despite a Council recommendation to continue using the prescribed strategy.

Service Response: Based on the current strategy last modified in 2007, along with an observed spring breeding population of 3.22 million, an overflight-bias-corrected breeding population of 3.73 million and a projected fall flight of 5.13 million pintails, the pintail harvest strategy prescribes a full season and a 1-bird daily bag limit in the Atlantic, Mississippi, and Central Flyways. In the Pacific Flyway a 2-bird daily bag limit and a full season is prescribed. Thus, we agree with the Councils' recommendations for the 2009-10 season. Under the ''liberal'' season length, this regulation is expected to result in a harvest of 643,388 pintails and an expected breeding population estimate (corrected scale) of 4.02 million in 2010.

Regarding the Mississippi Flyway Council's recommendation to evaluate the performance of the prescribed strategy for managing harvest of northern pintails, we have previously provided such information and remain committed to implementation of a derived strategy for pintail harvest management next year. This strategy would replace the current prescriptive strategy that has been used for pintails since 1997. In order for the implementation of the new derived strategy to be successful, the Service and Flyway Councils must reach agreement on several key issues. These issues include: (1) determination of the harvest management objective, (2) identification of any constraints that would be included in the strategy (e.g., closure constraint), and (3) a decision regarding specific inclusion of a harvest allocation process. We will make technical information regarding these three aspects of the derived strategy available at the December 2009 AHM Working Group Meeting, with additional discussion at the 2010 February SRC meeting in Denver, followed by Flyway Council consideration at their 2010 winter meetings.

vi. Scaup

Council Recommendations: The Atlantic Flyway Council and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended use of the ''moderate'' regulation package consisting of a 60–day season with a 2-bird daily bag.

The Central Flyway Council recommended use of the ''moderate'' regulation package consisting of a 74–day season with a 2-bird daily bag limit.

The Pacific Flyway Council recommended the adoption of the ''moderate'' regulation package for the Pacific Flyway consisting of an 86–day season with a 3-bird daily bag limit.

Service Response: Last year, we adopted and implemented a new scaup harvest strategy (73 FR 43290 and 73 FR 51124). Initial ''restrictive,'' ''moderate,'' and ''liberal'' regulatory packages were adopted for each Flyway in 2008. Further opportunity to revise these packages was afforded prior to the 2009–10 season, and modifications that were recommended by the Mississippi and Central Flyway Councils were endorsed by the Service in June 2009 (74 FR 36870). These packages will remain in effect for at least 3 years prior to their re-evaluation.

The 2009 breeding population estimate for scaup is 4.17 million, up 12 percent from, but similar to, the 2008 estimate of 3.74 million. Total estimated scaup harvest for the 2008–09 season was 229,000 birds. Based on updated model parameter estimates, the optimal regulatory choice for scaup is the ''moderate'' package recommended by the Councils in all four Flyways.

vii. Mottled Ducks

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended reducing the daily bag limit for mottled ducks from 3 to 1 bird per day.

The Central Flyway Council initially recommended that no further harvest reductions were warranted. However, at the July SRC meeting, they subsequently amended their Council recommendation by agreeing to delay the opening of the mottled duck season for the first 5 days of the regular duck season.

Service Response: For many years, we have expressed concern about the long-term status of mottled ducks, especially the Western Gulf Coast Population. After consideration of long-term trends for this population, recent harvest levels, and this year's breeding habitat conditions, we believe that a reduction in harvest levels for this population is necessary.

The Mississippi Flyway Council's recommendation to reduce the daily bag limit of mottled ducks to one bird is projected to result in a harvest reduction of about 20 percent. The Central Flyway Council's amended recommendation to delay the opening of the mottled duck season is expected to result in a similar harvest reduction. We believe that this level of reduction is necessary across the entire range of Western Gulf Coast Population this year. Accordingly, we support the Mississippi Flyway Council's recommendation and the Central Flyway Council's amended recommendation with the goal of achieving approximately a 20 percent reduction in mottled duck harvest.

We also urge that an assessment be conducted of whether desired reductions in harvest are achieved as a result of the proposed restrictions. Furthermore, the status of mottled ducks and their breeding habitat should

be closely monitored and a determination made whether further restrictions are warranted. Should additional restrictions be needed, we will consider all regulatory options, including the potential for a closed season.

viii. Wood Ducks

Council Recommendations: The Atlantic and Central Flyway Councils and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the Service's timetable for implementing a wood duck harvest strategy in the Atlantic, Mississippi, and Central Flyways be extended to allow additional data collection and evaluation of wood duck harvest rates from seasons with a 3-bird daily limit.

Service Response: Last year, we indicated that we would like the Flyways to develop a wood duck harvest strategy for implementation during the 2010–11 hunting season (73 FR 55602). However, upon further review, this date will only allow information from two hunting seasons (2008–09 and 2009–10) to be considered for any assessment of wood duck harvest rates and other parameters useful in making management decisions under a wood duck harvest strategy. Further, we would not have any wood duck recovery information available from this year's hunting season. We believe that an additional year(s) would provide more information for assessing the effect of the 3-bird bag limit and incorporation of this information into the harvest strategy development process. Thus, we agree with the Councils and support such an extension.

4. Canada Geese

B. Regular Seasons

Council Recommendations: The Atlantic Flyway Council forwarded two recommendations concerning Canada geese. First, the Council recommended the establishment of an operational season in Back Bay, Virginia. The season frameworks would be aligned with the harvest regulations in the adjacent Atlantic Population (AP) Zone (currently a 45–day season with a 2-bird daily bag limit). The Council also recommended that the Service allow a 7–day season with a 1-bird daily bag limit in the Northeast Goose Zone of North Carolina with framework dates of the Saturday prior to December 25 to January 31.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the season length in Louisiana be extended from 16 to 44 days and that the daily bag limit of 1 per day be included in an aggregate dark goose daily bag limit of 2 per day, with no more than 1 Canada goose. The Committees also recommended extending the goose season in Ohio from 70 to 74 days.

The Pacific Flyway Council recommended reducing quotas for dusky Canada geese in Washington to 45 (from 85) and in Oregon to 90 (from 165) and lengthening the season in California's Sacramento Valley Special Management Area (West) to allow it to begin concurrently with the general goose season and change the name by removing the ''(West)''.

Service Response: We support the Atlantic Flyway's recommendations for operational Canada goose seasons in Back Bay, Virginia, and the Northeast Goose Zone in North Carolina. Although results of the recent experimental seasons show that migrant goose harvest was greater than 10 percent, we recognize that both of those experimental seasons were within the existing frameworks for AP, North Atlantic Population (NAP), and Southern James Bay Population (SJBP) goose regular seasons. We also recognize that these seasons, and the harvest expected to result from them, are allowable under the current hunt plan guidelines established in the Flyway Management Plans for AP, NAP, SJBP, and resident Canada geese.

We also support the Mississippi Flyway Council's proposals to lengthen the season in Louisiana and Ohio. With regard to the goose population involved in Louisiana, the 2009 mid-winter estimate for the Tall Grass Prairie Population (TGPP) was 310,000, which, although much lower than previous years, remains above the 250,000 population objective. We note that harvest rate on this population is relatively low and Louisiana harvest is very small, averaging 1,710 in 1999-2005 during 9–day seasons and 1,480 in 2006-08 during 16–day seasons. Louisiana further estimates that extending the season length to 44 days will likely increase the harvest to possibly twice current levels. However, while the extended season would allow increased opportunity to take Canada geese, Louisiana believes that aggregating the daily bag limit with white-fronted geese would moderate the increased harvest of Canada geese and possibly reduce the harvest pressure on white-fronted geese.

Regarding dusky Canada geese, the annual population index based on the breeding pair survey on the Copper River Delta is 6,709, a decrease from the previous year's index of 9,152. The 3–year average index is 8,682. This decline triggers implementation of further measures of protection for this population as described under Action level 2 in the management plan. Based on the harvest strategy in the management plan, we support the Council recommendations to further reduce the quotas assigned to Washington (to 45) and Oregon (to 90) and instituting other management actions identified for Action level 2. We note that the status of dusky Canada geese continues to be a matter of concern. Harvest restrictions have been in place to protect these geese throughout their range since the 1970's. We continue to support the harvest strategy described in the 2008 management plan for this population.

We also concur with the Pacific Flyway Council's recommendation regarding the Sacramento Valley Special Management Area (West) in California. Created in 1975, the zone was a closure area for Canada geese to protect the then-endangered Aleutian Canada goose. Over the decades, the boundaries and specifics of the zone evolved to manage harvest of cackling Canada geese and Pacific white-fronted geese when those populations were at low levels. Given the current status of Aleutian and cackling Canada geese and Pacific white-fronted geese, we view this change as relatively minor and administrative in nature and do not expect the change to impact populations (see further discussion under 5. White-fronted Geese).

5. White-fronted Geese

Council Recommendations: The Pacific Flyway Council recommended increasing the overall daily bag limit for geese in the Klamath County Zone of Oregon in the portion of the season after the last Sunday in January from 4 to 6 geese per day. Specific to white-fronted geese, the Council recommended increasing the daily bag limit from 1 to 2 per day within the proposed overall goose daily bag limit of 6 birds. In California's Sacramento Valley Special Management Area (West), the Council also recommended lengthening the season to allow it to begin concurrently with the general goose season and changing the name by removing the ''(West).''

Service Response: We concur with the Pacific Flyway Council's recommended changes in the Oregon's Klamath County Zone and California's Sacramento Valley Special Management Area (West). In the Klamath County

Zone, of the five recognized goose populations affected by this proposal, all three light goose and Pacific greater white-fronted geese populations are currently above identified management plan objectives. Additionally, Tule goose population estimates have remained stable over the last 6 years at nearly 12,000 geese. Increasing the white-fronted goose daily bag limit from 1 to 2 is expected to increase white-fronted goose harvest to levels observed during late-winter hunts in 2007 and 2008 and the change is not expected to appreciably increase Tule goose harvest beyond that currently occurring in other areas of California and Oregon.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommended a 50–day season with a 2-bird daily bag limit for Atlantic brant.

Service Response: We concur with the Atlantic Flyway Council's recommendation. The 2009 Mid-Winter Index (MWI) for Atlantic brant decreased to 151,300 from 160,618 brant in 2008. While the Brant Management Plan prescribes the continuation of a 60–day season with a 3-bird daily bag limit when the MWI estimate is above 150,000, we note that spring was 2-3 weeks later than normal in portions of Atlantic brant staging and breeding areas this year and these conditions have usually resulted in poor brant production in the past. Thus, we agree with the Council that a decrease of 10 days with the associated daily bag limit decrease is the proper approach for the upcoming season.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Pacific Flyway Council recommended increasing the overall daily bag limit for geese in the Klamath County Zone of Oregon in the portion of the season after the last Sunday in January from 4 to 6 geese per day. Specific to light geese, the Council recommended increasing the daily bag limit from 3 to 4 per day within the proposed overall goose daily bag limit of 6 birds. In California's Sacramento Valley Special Management Area (West), the Council also recommended lengthening the season to allow it to begin concurrently with the general goose season and changing the name by removing the ''(West).''

Service Response: We support the proposed changes for light geese in the Pacific Flyway. In 2007, the Flyway's December goose count exceeded 1 million for the first time, representing a doubling of this index since 1999. Light goose indices (Snow and Ross' geese combined) indicate that all recognized populations currently exceed management plan goals. In some areas of the Pacific Flyway, these goose populations are leading to increasing depredation complaints. In addition, numbers of light geese breeding on Wrangel Island, Russia, a colony that has been of concern in the past, has recovered to near record levels in the past few years. We support efforts to increase harvest of these geese to limit further population growth and perhaps the overabundance problems associated with the species that have been documented in several of the midcontinent regions.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88-14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our record of decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available by writing to the address indicated under the caption **ADDRESSES**.

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). A scoping report summarizing the scoping comments and scoping meetings is available by either writing to the street address indicated under **ADDRESSES** or by viewing our website at *http://www.fws.gov/migratorybirds/*.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531-1543; 87 Stat. 884), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded or carried out ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat...'' Consequently, we conducted consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in the Section 7 Consultation on the Proposed 2009–10 Migratory Game Bird Hunting Regulations (dated August 24, 2009). The consultation concluded that the 2009-10 regulations are not likely to jeopardize the continued existence of either the whooping crane or Steller's eider. To prevent take of whooping cranes, the Contingency Plan for Federal-State Cooperative Protection of whooping cranes provides a protective program in thirteen States. In addition, the State of Kansas will implement specific restrictions to avoid accidental shootings. To prevent take of Steller's eiders, the 2009–10 regulations include the continued implementation of measures initiated and outlined under the 2009 Alaska migratory bird subsistence regulations. These measures include Service initiated conservation measures that increase migratory bird hunter outreach prior to the opening of the hunting season, increased Service enforcement of migratory bird regulations, and conducting in-season harvest verification of Steller's eider mortality and injury. Additionally, any modifications resulting from this consultation may have caused modification of some regulatory measures previously proposed. The final frameworks reflect any modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and Division of Migratory Bird Management, at the street address indicated under **ADDRESSES**.

Executive Order 12866

The Office of Management and Budget has determined that this rule is significant and has reviewed this rule under Executive Order 12866. OMB bases its determination of regulatory significance upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

An economic analysis was prepared for the 2008–09 season. This analysis was based on data from the 2006 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimates consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) Issue restrictive regulations allowing fewer days than those issued during the 2007–08 season, (2) Issues moderate regulations allowing more days than those in alternative 1, and (3) Issue liberal regulations identical to the regulations in the 2007–08 season. For the 2008–09 season, we chose alternative 3, with an estimated consumer surplus across all flyways of $205–$270 million. For the upcoming 2009–10 season, we again considered these three alternatives and again chose alternative 3 for ducks. We made minor modifications to the season frameworks for some other species, but these do not significantly change the economic impacts of the rule, which were not quantified for other species. For these reasons, we have not conducted a new economic analysis, but the 2008–09 analysis is part of the record for this rule and is available at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov*.

Regulatory Flexibility Act

The regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, and 2008. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5–year intervals. The 2008 Analysis was based on the 2006 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.2 billion at small businesses in 2008. Copies of the Analysis are available upon request from the street address indicated under **ADDRESSES** or from our website at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov*.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more.

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of our Migratory Bird Surveys and assigned control number 1018–0023 (expires 2/28/2011). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Alaska Subsistence Household Survey, an associated voluntary annual household survey used to determine levels of subsistence take in Alaska, and assigned control number 1018–0124 (expires 1/31/2010). A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 10 **Federal Register**, we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2009–10 migratory bird hunting season. The resulting proposals were contained in a separate proposed rule (74 FR 36870). By virtue of these actions, we have consulted with Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Indian Tribe may be more restrictive than the Federal frameworks

at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication. Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season selections from these officials, we will publish a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the conterminous United States for the 2009–10 season.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: September 10, 2009.

Thomas L. Strickland,

Assistant Secretary for Fish and Wildlife and Parks.

PART 20 C [AMENDED]

The rules that eventually will be promulgated for the 2009–10 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Final Regulations Frameworks for 2009–10 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department has approved the following frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 2009, and March 10, 2010.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways:

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units:

High Plains Mallard Management Unit—roughly defined as that portion of the Central Flyway that lies west of the 100th meridian.

Definitions:

For the purpose of hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese: Canada geese, white-fronted geese, brant (except in California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: snow (including blue) geese and Ross' geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to late-season regulations are contained in a later portion of this document.

Area-Specific Provisions: Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by Flyway.

Waterfowl Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special Youth Waterfowl Hunting Days

Outside Dates: States may select 2 consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holiday, or other non-school day when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, tundra swans, mergansers, coots, moorhens, and gallinules and would be the same as those allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18

years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Tundra swans may only be taken by participants possessing applicable tundra swan permits.

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 26) and the last Sunday in January (January 31).

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (2 hens), 1 black duck, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 scaup, 1 canvasback, and 4 scoters.

Closures: The season on harlequin ducks is closed.

Sea Ducks: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Maryland, North Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

Canada Geese

Season Lengths, Outside Dates, and Limits: Specific regulations for Canada geese are shown below by State. These seasons also include white-fronted geese. Unless specified otherwise, seasons may be split into two segments. In areas within States where the framework closing date for Atlantic Population (AP) goose seasons overlaps with special late-season frameworks for resident geese, the framework closing date for AP goose seasons is January 14.

Connecticut:

North Atlantic Population (NAP) Zone: Between October 1 and January 31, a 60–day season may be held with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 45–day season may be held between the fourth Saturday in October (October 24) and January 31, with a 3-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80–day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware: A 45–day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

Florida: An 80–day season may be held between November 15 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia: In specific areas, an 80–day season may be held between November 15 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine: A 60–day season may be held Statewide between October 1 and January 31, with a 2-bird daily bag limit.

Maryland:

RP Zone: An 80–day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 45–day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

Massachusetts:

NAP Zone: A 60–day season may be held between October 1 and January 31, with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 45–day season may be held between October 20 and January 31, with a 3-bird daily bag limit.

New Hampshire: A 60–day season may be held statewide between October 1 and January 31, with a 2-bird daily bag limit.

New Jersey:

Statewide: A 45–day season may be held between the fourth Saturday in October (October 24) and January 31, with a 3-bird daily bag limit.

Special Late Goose Season Area: An experimental season may be held in designated areas of North and South New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York:

NAP Zone: Between October 1 and January 31, a 60–day season may be held, with a 2-bird daily bag limit in the High Harvest areas; and between October 1 and February 15, a 70–day season may be held, with a 3-bird daily bag limit in the Low Harvest areas.

Special Late Goose Season Area: An experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit in designated areas of Chemung, Delaware, Tioga, Broome, Sullivan, Westchester, Nassau, Suffolk, Orange, Dutchess, Putnam, and Rockland Counties.

AP Zone: A 45–day season may be held between the fourth Saturday in October (October 24), except in the Lake Champlain Area where the opening date is October 20, and January 31, with a 3-bird daily bag limit.

Western Long Island RP Zone: An 80–day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80–day season may be held between the fourth Saturday in October (October 24) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina:

SJBP Zone: A 70–day season may be held between October 1 and December 31, with a 5-bird daily bag limit.

RP Zone: An 80–day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Hunt Unit: A 7–day season may be held between the Saturday prior to December 25 (December 19) and January 31, with a 1-bird daily bag limit.

Pennsylvania:

SJBP Zone: A 70–day season may be held between the second Saturday in October (October 10) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80–day season may be held between the fourth Saturday in October (October 24) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 45–day season may be held between the fourth Saturday in October (October 24) and January 31, with a 3-bird daily bag limit.

Rhode Island: A 60–day season may be held between October 1 and January 31, with a 2-bird daily bag limit. An experimental season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina: In designated areas, an 80–day season may be held during November 15 to February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont: A 45–day season may be held between October 20 and January 31 with a 3-bird daily bag limit in the Lake Champlain Zone and Interior Zone. A 60–day season may be held in the Connecticut River Zone between October 1 and January 31, with a 2-bird daily bag limit.

Virginia:

SJBP Zone: A 40–day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, an experimental season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 45–day season may be held between November 15 and January 31, with a 2-bird daily bag limit.

RP Zone: An 80–day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia: An 80–day season may be held between October 1 and January 31, with a 5-bird daily bag limit. The season may be split into 2 segments in each zone.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107–day season between October 1 and March 10, with a 15-bird daily bag limit and no possession limit. States may split their seasons into three segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50–day season between the Saturday nearest September 24 (September 26) and January 31, with a 2-bird daily bag limit. States may split their seasons into two segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 26) and the last Sunday in January (January 31).

Hunting Seasons and Duck Limits: The season may not exceed 60 days, with a daily bag limit of 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 1 black duck, 1 pintail, 3 wood ducks, 1 canvasback, 2 scaup, and 2 redheads.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Arkansas and Mississippi, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments.

Season Lengths, Outside Dates, and Limits: States may select seasons for light geese not to exceed 107 days, with 20 geese daily between the Saturday nearest September 24 (September 26) and March 10; for white-fronted geese not to exceed 72 days with 2 geese daily or 86 days with 1 goose daily between the Saturday nearest September 24 (September 26) and the Sunday nearest February 15 (February 14); and for brant not to exceed 70 days, with 2 brant daily or 107 days with 1 brant daily between the Saturday nearest September 24 (September 26) and January 31. There is no possession limit for light geese. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State. Except as noted below, the outside dates for Canada geese are the Saturday nearest September 24 (September 26) and January 31.

Alabama: In the SJBP Goose Zone, the season for Canada geese may not exceed 70 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

Arkansas: In the Northwest Zone, the season for Canada geese may extend for 50 days. In the remainder of the State, the season may not exceed 40 days. The season may extend to February 15. The daily bag limit is 2 Canada geese.

Illinois: The season for Canada geese may extend for 85 days in the North and Central Zones and 66 days in the South Zone. The daily bag limit is 2 Canada geese.

Indiana: The season for Canada geese may extend for 74 days. The daily bag limit is 2 Canada geese.

Late Canada Goose Season Zone — An experimental special Canada goose season of up to 15 days may be held during February 1–15. During this special season the daily bag limit cannot exceed 5 Canada geese.

Iowa: The season for Canada geese may extend for 90 days. The daily bag limit is 2 Canada geese.

Kentucky:

(a) Western Zone—The season for Canada geese may extend for 70 days (85 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone—The season may extend for 70 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese.

Louisiana: The season for Canada geese may extend for 44 days. The daily bag limit is 1 Canada goose.

Michigan:

(a) North Zone – The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(b) Middle Zone – The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(c) South Zone – The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(1) Allegan County and Muskegon Wastewater GMU - The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days. The daily bag limit is 2 Canada geese.

(2) Saginaw County and Tuscola/Huron GMUs - The framework opening date for all geese is September 16 and the season for Canada geese may extend for 45 days through December 30 and an additional 30 days may be held between December 31 and February 7. The daily bag limit is 2 Canada geese.

(d) Southern Michigan Late Season Canada Goose Zone—A 30–day special Canada goose season may be held between December 31 and February 7.

The daily bag limit may not exceed 5 Canada geese.

Minnesota:

(a) West Zone

(1) West Central Zone—The season for Canada geese may extend for 41 days. The daily bag limit is 2 Canada geese.

(2) Remainder of West Zone—The season for Canada geese may extend for 60 days. The daily bag limit is 2 Canada geese.

(b) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

(c) Special Late Canada Goose Season—A special Canada goose season of up to 10 days may be held in December, except in the West Central Goose zone. During the special season, the daily bag limit is 5 Canada geese, except in the Southeast Goose Zone, where the daily bag limit is 2.

Mississippi: The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

Missouri: The season for Canada geese may extend for 79 days and may be split into 3 segments provided that at least 1 segment of at least 9 days occurs prior to October 16. The daily bag limit is 3 Canada geese through October 15 and 2 Canada geese thereafter.

Ohio:

(a) Lake Erie Zone–The season may extend for 74 days. The daily bag limit is 2 Canada geese.

(b) North Zone–The season may extend for 74 days. The daily bag limit is 2 Canada geese.

(c) South Zone – The season may extend for 74 days. The daily bag limit is 2 Canada geese.

Tennessee:

(a) Northwest Zone—The season for Canada geese may not exceed 72 days, and may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Southwest Zone—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

(d) Remainder of the State—The season for Canada geese may extend for 72 days. The daily bag limit is 2 Canada geese.

Wisconsin:

(a) Horicon Zone—The framework opening date for all geese is September 16. The season may not exceed 92 days. All Canada geese harvested must be tagged. The season limit will be 6 Canada geese per permittee.

(b) Collins Zone—The framework opening date for all geese is September 16. The season may not exceed 70 days. All Canada geese harvested must be tagged. The season limit will be 6 Canada geese per permittee.

(c) Exterior Zone—The framework opening date for all geese is September 16. The season may not exceed 85 days. The daily bag limit is 2 Canada geese.

Additional Limits: In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 26) and the last Sunday in January (January 31).

Hunting Seasons:

(1) High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway which lies west of the 100th meridian): 97 days. The last 23 days may start no earlier than the Saturday nearest December 10 (December 12).

(2) Remainder of the Central Flyway: 74 days.

Bag Limits: The daily bag limit is 6 ducks, with species and sex restrictions as follows: 5 mallards (no more than 2 of which may be females), 2 redheads, 2 scaup, 3 wood ducks, 1 pintail, 1 mottled duck (except for the first 5 days of the season when it is closed), and 1 canvasback.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

Geese

Split Seasons: Seasons for geese may be split into three segments. Three-way split seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3–year evaluation by each participating State.

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 26) and the Sunday nearest February 15 (February 14). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 26) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Season Lengths and Limits:

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 20 with no possession limit.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 3. Additionally, in the Eastern Goose Zone of Texas, an alternative season of 107 days with a daily bag limit of 1 Canada goose may be selected. For white-fronted geese, these States may select either a season of 72 days with a bag limit of 2 or an 86–day season with a bag limit of 1.

In Montana, New Mexico and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In Colorado, the season may not exceed 107 days. The daily bag limit is 4 dark geese in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada geese (or any other dark goose species except white-fronted geese) is 4. The daily bag limit for white-fronted geese is 1.

Pacific Flyway

Ducks, Mergansers, Coots, Common Moorhens, and Purple Gallinules

Hunting Seasons and Duck Limits: Concurrent 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 2 pintails, 3 scaup, 1

canvasback, and 2 redheads. For scaup, the season length would be 86 days, which may be split according to applicable zones/split duck hunting configurations approved for each State.

The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 107 days.

Coot, Common Moorhen, and Purple Gallinule Limits: The daily bag and possession limits of coots, common moorhens, and purple gallinules are 25, singly or in the aggregate.

Outside Dates: Between the Saturday nearest September 24 (September 26) and the last Sunday in January (January 31).

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may select hunting seasons by zones. Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming may split their seasons into two segments.

Colorado, Montana, and New Mexico may split their seasons into three segments.

Colorado River Zone, California: Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Season Lengths, Outside Dates, and Limits:

California, Oregon, and Washington:

Dark geese: Except as subsequently noted, 100–day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 3), and the last Sunday in January (January 31). The basic daily bag limit is 4 dark geese, except the dark goose bag limit does not include brant.

Light geese: Except as subsequently noted, 107–day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 3), and March 10. The daily bag limit is 6 light geese.

Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming:

Dark geese: Except as subsequently noted, 107–day seasons may be selected, with outside dates between the Saturday nearest September 24 (September 26), and the last Sunday in January (January 31). The basic daily bag limit is 4 dark geese.

Light geese: Except as subsequently noted, 107–day seasons may be selected, with outside dates between the Saturday nearest September 24 (September 26), and March 10. The basic daily bag limit is 10 light geese.

Split Seasons: Unless otherwise specified, seasons for geese may be split into up to 3 segments. Three-way split seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3–year evaluation by each participating State.

Brant Season

Oregon may select a 16–day season, Washington a 16–day season, and California a 30–day season. Days must be consecutive. Washington and California may select hunting seasons by up to two zones. The daily bag limit is 2 brant and is in addition to dark goose limits. In Oregon and California, the brant season must end no later than December 15.

Arizona: The daily bag limit for dark geese is 3.

California:

Northeastern Zone: The daily bag limit is 6 dark geese and may include no more than 1 cackling Canada goose or 1 Aleutian Canada goose.

Balance-of-the-State Zone: Limits may not include more than 6 dark geese per day. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 14, and the daily bag limit shall contain no more than 2 white-fronted geese. In the North Coast Special Management Area, 107–day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 3) and March 10. Hunting days that occur after the last Sunday in January shall be concurrent with Oregon's South Coast Zone.

Colorado: The daily bag limit for dark geese is 3.

Nevada: The daily bag limit for dark geese is 3.

New Mexico: The daily bag limit for dark geese is 3.

Oregon:

Except as subsequently noted, the dark goose daily bag limit is 4, including not more than 1 cackling or Aleutian goose.

Harney, Lake, and Malheur County Zone: For Lake County only, the daily dark goose bag limit may not include more than 1 white-fronted goose.

Klamath County Zone: A 107–day season may be selected, with outside dates between the Saturday nearest October 1 (October 3), and March 10. A 3-way split season may be selected. The daily goose bag limit is 4 dark geese and 4 white geese except for hunting days that occur after the last Sunday in January when only light geese and white-fronted geese may be taken. The daily bag limit of geese is 6 of which only 4 may be light geese and only 2 may be white-fronted geese.

Northwest Special Permit Zone: Outside dates are between the Saturday nearest October 1 (October 3), and the Sunday closest to March 1 (February 28). The daily bag limit of dark geese is 4 including not more than 2 cackling or Aleutian geese and daily bag limit of light geese is 4. In those designated areas of Tillamook County open to hunting, the daily bag limit of dark geese is 2.

South Coast Zone: The daily dark goose bag limit is 4 including cackling and Aleutian geese. In Oregon's South Coast Zone 107–day seasons may be selected, with outside dates between the Saturday nearest October 1 (October 3) and March 10. Hunting days that occur after the last Sunday in January shall be concurrent with California's North Coast Special Management Area. A 3-way split season may be selected.

Southwest Zone: The daily dark goose bag limit is 4 including cackling and Aleutian geese.

Utah: The daily bag limit for dark geese is 3.

Washington: The daily bag limit is 4 geese.

Area 1: Outside dates are between the Saturday nearest October 1 (October 3), and the last Sunday in January (January 31).

Areas 2A and 2B (Southwest Quota Zone): Except for designated areas, there will be no open season on Canada geese. See section on quota zones. In this area, the daily bag limit may include 2 cackling geese. In Southwest Quota Zone Area 2B (Pacific County), the daily bag limit may include 1 Aleutian goose.

Areas 4 and 5: A 107–day season may be selected for dark geese.

Wyoming: The daily bag limit for dark geese is 3.

Quota Zones

Seasons on geese must end upon attainment of individual quotas of dusky geese allotted to the designated areas of Oregon (90) and Washington (45). The September Canada goose season, the regular goose season, any special late dark goose season, and any extended falconry season, combined, must not exceed 107 days, and the established quota of dusky geese must not be exceeded. Hunting of geese in those designated areas will only be by hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations

aimed at reducing the take of dusky geese. If the monitoring program cannot be conducted, for any reason, the season must immediately close. In the designated areas of the Washington Southwest Quota Zone, a special late goose season may be held between the Saturday following the close of the general goose season and March 10. In the Northwest Special Permit Zone of Oregon, the framework closing date is extended to the Sunday closest to March 1 (February 28). Regular goose seasons may be split into 3 segments within the Oregon and Washington quota zones.

Swans

In portions of the Pacific Flyway (Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Nevada may issue up to 2 permits per hunter. Montana and Utah may only issue 1 permit per hunter. Each State's season may open no earlier than the Saturday nearest October 1 (October 3). These seasons are also subject to the following conditions:

Montana: No more than 500 permits may be issued. The season must end no later than December 1. The State must implement a harvest-monitoring program to measure the species composition of the swan harvest and should use appropriate measures to maximize hunter compliance in reporting bill measurement and color information.

Utah: No more than 2,000 permits may be issued. During the swan season, no more than 10 trumpeter swans may be taken. The season must end no later than the second Sunday in December (December 13) or upon attainment of 10 trumpeter swans in the harvest, whichever occurs earliest. The Utah season remains subject to the terms of the Memorandum of Agreement entered into with the Service in August 2001, regarding harvest monitoring, season closure procedures, and education requirements to minimize the take of trumpeter swans during the swan season.

Nevada: No more than 650 permits may be issued. During the swan season, no more than 5 trumpeter swans may be taken. The season must end no later than the Sunday following January 1 (January 3) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In addition, the States of Utah and Nevada must implement a harvest-monitoring program to measure the species composition of the swan harvest. The harvest-monitoring program must require that all harvested swans or their species-determinant parts be examined by either State or Federal biologists for the purpose of species classification. The States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination. Further, the States of Montana, Nevada, and Utah must achieve at least an 80-percent compliance rate, or subsequent permits will be reduced by 10 percent. All three States must provide to the Service by June 30, 2010, a report detailing harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas.

Tundra Swans

In portions of the Atlantic Flyway (North Carolina and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 tundra swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing. The States must obtain harvest and hunter participation data. These seasons are also subject to the following conditions:

In the Atlantic Flyway:

- The season may be 90 days, from October 1 to January 31.
- In North Carolina, no more than 5,000 permits may be issued.
- In Virginia, no more than 600 permits may be issued.

In the Central Flyway:

- The season may be 107 days, from the Saturday nearest October 1 (October 3) to January 31.
- In the Central Flyway portion of Montana, no more than 500 permits may be issued.
- In North Dakota, no more than 2,200 permits may be issued.
- In South Dakota, no more than 1,300 permits may be issued.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire and Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of Interstate Highway 95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the United States border.

South Zone: Remainder of the State.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.– Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Coastal Zone: That portion of the State east of a line extending west from the Maine State line in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter, east to NH 51 (Exeter–Hampton Expressway), east to I–95 (New Hampshire Turnpike) in Hampton, and south along I–95 to the Massachusetts State line.

Inland Zone: That portion of the State north and west of the above boundary and along the Massachusetts State line crossing the Connecticut River to Interstate 91 and northward in Vermont to Route 2, east to 102, northward to the Canadian border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York – Canada International boundary south to NY9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I-81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont State line, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York State line along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: That portion of Vermont west of the Lake Champlain Zone and eastward of a line extending from the Massachusetts State line at Interstate 91; north along Interstate 91 to US 2; east along US 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

West Virginia

Zone 1: That portion outside the boundaries in Zone 2.

Zone 2 (Allegheny Mountain Upland): That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I–64; I–64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I–79, I–79 north to I–68; I–68 east to the Maryland State line; and along the State line to the point of beginning.

Mississippi Flyway

Alabama

South Zone: Mobile and Baldwin Counties.

North Zone: The remainder of Alabama.

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I-55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I-80, west along I-80 to I-39, south along I-39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Zone to a line extending west from the Indiana border along Interstate Highway 70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 156, west along Illinois Route 156 to A Road, north and west on A Road to Levee Road, north on Levee Road to the south shore of New Fountain Creek, west along the south shore of New Fountain Creek to the Mississippi River, and due west across the Mississippi River to the Missouri border.

South Zone: The remainder of Illinois.

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois State line along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio State line.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois State line along Interstate Highway 64 to New Albany, east along State Road 62 to State Road 56, east along State Road 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio State line.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State Highway 37, southeast along State Highway 37 to State Highway 183, northeast along State Highway 183 to State Highway 141, east along State Highway 141 to U.S. Highway 30, then east along U.S. Highway 30 to the Illinois border.

South Zone: The remainder of Iowa.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

West Zone: That portion of the State west and south of a line extending south from the Arkansas State line along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to the Mississippi State line.

East Zone: The remainder of Louisiana.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin State line in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, easterly along U.S. 10 BR to U.S. 10, easterly along U.S. 10 to Interstate Highway 75/U.S. Highway 23, northerly along I–75/U.S. 23 to the U.S. 23 exit at Standish, easterly along U.S. 23 to the centerline of the Au Gres River, then southerly along the centerline of the Au Gres River to Saginaw Bay, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23, east along State Highway 23 to State Highway 39, then east along State Highway 39 to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The remainder of Minnesota.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois State line (Lock and Dam 25) on Lincoln County Highway N to Missouri Highway 79; south on Missouri Highway 79 to Missouri Highway 47; west on Missouri Highway 47 to Interstate 70; west on Interstate 70 to the Kansas State line.

South Zone: That portion of Missouri south of a line running west from the Illinois State line on Missouri Highway 34 to Interstate 55; south on Interstate 55 to U.S. Highway 62; west on U.S. Highway 62 to Missouri Highway 53; north on Missouri Highway 53 to Missouri Highway 51; north on Missouri Highway 51 to U.S. Highway 60; west on U.S. Highway 60 to Missouri Highway 21; north on Missouri Highway 21 to Missouri Highway 72; west on Missouri Highway 72 to Missouri Highway 32; west on Missouri Highway 32 to U.S. Highway 65; north on U.S. Highway 65 to U.S. Highway 54; west on U.S. Highway 54 to the Kansas State line.

Middle Zone: The remainder of Missouri.

Ohio

North Zone: That portion of the State north of a line extending east from the Indiana State line along U.S. Highway 33 to State Route 127, south along SR 127 to SR 703, south along SR 703 to SR 219, east along SR 219 to SR 364, north along SR 364 to SR 703, east along SR 703 to SR 66, north along SR 66 to U.S. 33, east along U.S. 33 to SR 385, east along SR 385 to SR 117, south along SR 117 to SR 273, east along SR 273 to SR 31, south along SR 31 to SR 739, east along SR 739 to SR 4, north along SR 4 to SR 95, east along SR 95 to SR 13, southeast along SR 13 to SR 3, northeast along SR 3 to SR 60, north along SR 60 to U.S. 30, east along U.S. 30 to SR 3, south along SR 3 to SR 226, south along SR 226 to SR 514, southwest along SR 514 to SR 754, south along SR 754 to SR 39/60, east along SR 39/60 to SR 241, north along SR 241 to U.S. 30, east along U.S.30 to SR 39, east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

South Zone: The remainder of Wisconsin.

Central Flyway

Colorado (Central Flyway Portion)

Eastern Plains Zone: That portion of the State east of Interstate 25, and all of El Paso, Pueblo, Heurfano, and Las Animas Counties.

Mountain/Foothills Zone: That portion of the State west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Heurfano, and Las Animas Counties.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That area of Kansas east of U.S. 283, and generally west of a line beginning at the Junction of the Nebraska border and KS 28; south on KS 28 to U.S. 36; east on U.S. 36 to KS 199; south on KS 199 to Republic Co. Road 563; south on Republic Co. Road 563 to KS 148; east on KS 148 to Republic Co. Road 138; south on Republic Co. Road 138 to Cloud Co. Road 765; south on Cloud Co. Road 765 to KS 9; west on KS 9 to U.S. 24; west on U.S. 24 to U.S. 281; north on U.S. 281 to U.S. 36; west on U.S. 36 to U.S. 183; south on U.S. 183 to U.S. 24; west on U.S. 24 to KS 18; southeast on KS 18 to U.S. 183; south on U.S. 183 to KS 4; east on KS 4 to I-135; south on I-135 to KS 61; southwest on KS 61 to KS 96; northwest on KS 96 to U.S. 56; southwest on U.S. 56 to KS 19; east on KS 19 to U.S. 281; south on U.S. 281 to U.S. 54; west on U.S. 54 to U.S. 183; north on U.S. 183 to U.S. 56; southwest on U.S. 56 to Ford Co. Road 126; south on Ford Co. Road 126 to U.S. 400; northwest on U.S. 400 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

Zone 2: The remainder of Montana.

Nebraska

High Plains Zone: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. 183, south on U.S. 183 to U.S. 20, west on U.S. 20 to NE 7, south on NE 7 to NE 91, southwest on NE 91 to NE 2, southeast on NE 2 to NE 92, west on NE 92 to NE 40, south on NE 40 to NE 47, south on NE 47 to NE 23, east on NE 23 to U.S. 283 and south on U.S. 283 to the Kansas-Nebraska border.

Low Plains Zone 1: That portion of Dixon County west of NE 26E Spur and north of NE 12; those portions of Cedar County north of NE 12; those portions of Knox County north of NE 12 to intersection of Niobrara River; all of Boyd County; Keya Paha County east of U.S. 183. Both banks of the Niobrara River in Keya Paha, Boyd, and Knox Counties east of U.S. 183 shall be included in Zone 1.

Low Plains Zone 2: Area bounded by designated Federal and State highways and political boundaries beginning at the Kansas-Nebraska border on U.S. 75 to U.S. 136; east to the intersection of U.S. 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R-562; north along Federal Levee R-562 to the intersection with the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE 2; west to U.S. 75; north to NE 2; west to NE 43; north to U.S. 34; east to NE 63; north and west to U.S. 77; north to NE 92; west to U.S. 81; south to NE 66; west to NE 14; south to County Road 22 (Hamilton County); west to County Road M; south to County Road 21; west to County Road K; south U.S. 34; west to NE 2; south to U.S. I-80; west to Gunbarrel Road (Hall/Hamilton county line); south to Giltner Road; west to U.S. 281; south to U.S. 34; west to NE 10; north to County Road ''R'' (Kearney County) and County Road #742 (Phelps County); west to County Road #438 (Gosper County line); south along County Road #438 (Gosper County line) to County Road #726 (Furnas County line); east to County Road #438 (Harlan County line); south to U.S. 34; south and west to U.S. 136; east to NE 14; south to the Kansas-Nebraska border; west to U.S. 283; north to NE 23; west to NE 47; north to U.S. 30; east to NE 14; north to NE 52; west and north to NE 91 to U.S. 281; south to NE 22; west to NE 11; northwest to NE 91; west to Loup County Line; north to Loup-Brown County line; east along northern boundaries of Loup, Garfield, and Wheeler Counties; south on the Wheeler-Antelope county line to NE 70; east to NE 14; south to NE 39; southeast to NE 22; east to U.S. 81; southeast to U.S. 30; east to U.S. 75; north to the Washington County line; east to the Iowa-Nebraska border; south along the Iowa-Nebraska border; to the beginning at U.S. 75 and the Kansas-Nebraska border.

Low Plains Zone 3: The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

Low Plains Zone 4: The area east of the High Plains Zone and south of Zone 2.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains Unit: That portion of the State south and west of a line from the South Dakota State line along U.S. 83 and I–94 to ND 41, north to U.S. 2, west to the Williams/Divide County line, then north along the County line to the Canadian border.

Low Plains Unit: The remainder of North Dakota.

Oklahoma

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S.183 to I-40, east along I-40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I-35, north along I-35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains Zone: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S.14, east on U.S.14 to Blunt, south on the Blunt-Canning road to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I-90, east on I-90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S.18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I-29.

Middle Zone: The remainder of South Dakota.

Texas

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone 1: The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, and Washakie; and the portion of Park County east of the Shoshone National Forest boundary and south of a line beginning where the Shoshone National Forest boundary meets Park County Road 8VC, east along Park County Road 8VC to Park County Road 1AB, continuing east along Park County Road 1AB to Wyoming Highway 120, north along WY Highway 120 to WY Highway 294, south along WY Highway 294 to Lane 9, east along Lane 9 to Powel and WY Highway 14A, and finally east along WY Highway 14A to the Park County and Big Horn County line.

Zone 2: The remainder of Wyoming.

Pacific Flyway

Arizona

Game Management Units (GMU) as follows:

South Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 10 and 12B–45.

North Zone: GMUs 1–5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 12A.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old

Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada State line; north along the California–Nevada State line to the junction of the California–Nevada–Oregon State lines; west along the California–Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada State line south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino–Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army–Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe–Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade–Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada State line.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Idaho

Zone 1: Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

Zone 2: Includes the following Counties or portions of Counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; Blaine; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

Zone 3: Includes the following Counties or portions of Counties: Ada; Boise; Canyon; Cassia except within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

Nevada

Lincoln and Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

Oregon

Zone 1: Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, Curry, Josephine, Jackson, Linn, Benton, Polk, Marion, Yamhill, Washington, Columbia, Multnomah, Clackamas, Hood River, Wasco, Sherman, Gilliam, Morrow and Umatilla Counties.

Columbia Basin Mallard Management Unit: Gilliam, Morrow, and Umatilla Counties.

Zone 2: The remainder of the State.

Utah

Zone 1: All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Unitah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Mallard Management Unit: Same as East Zone.

West Zone: All areas to the west of the East Zone.

Wyoming

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S. F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger-Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of Flyway Zone: Balance of the Pacific Flyway in Wyoming outside the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with Route 91 in Hartford, and then extending south along Route 91 to its intersection with the Hartford/Middlesex County line.

AFRP Unit: Starting at the intersection of I-95 and the Quinnipiac River, north on the Quinnipiac River to its intersection with I-91, north on I-91 to I-691, west on I-691 to the Hartford County line, and encompassing the rest of New Haven County and Fairfield County in its entirety.

NAP H-Unit: All of the rest of the State not included in the AP or AFRP descriptions above.

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Maryland

Resident Population (RP) Zone: Garrett, Allegany, Washington, Frederick, and Montgomery Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire line.

New Hampshire

Same zones as for ducks.

New Jersey

North: That portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94: then west along Route 94 to the tollbridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point.

South: That portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York-Canada International boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York-Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate Route 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Interstate Route 87, north along Interstate Route 87 to Route 9 (at Exit 20), north along Route 9 to Route 149, east along Route 149 to Route 4, north along Route 4 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara-Orleans County boundary) meets the International boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden-Murrays Corners Road, south on Crittenden-Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario,

extending generally northwest in a straight line to the nearest point of the International boundary with Canada, south and west along the International boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York-Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York–Pennsylvania boundary, southeast along the New York–Pennsylvania boundary to the New York–New Jersey boundary, southeast along the New York–New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor–Cornwall town boundary, northeast along the New Windsor-Cornwall town boundary to the Orange–Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess–Putnam County boundary, east along the county boundary to the New York-Connecticut boundary, north along the New York–Connecticut boundary to the New York–Massachusetts boundary, north along the New York–Massachusetts boundary to the New York–Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

Special Late Canada Goose Area: That area of the Central Long Island Goose Area lying north of State Route 25A and west of a continuous line extending northward from State Route 25A along Randall Road (near Shoreham) to North Country Road, then east to Sound Road and then north to Long Island Sound and then due north to the New York-Connecticut boundary.

North Carolina

SJBP Hunt Zone: Includes the following Counties or portions of Counties: Anson, Cabarrus, Chatham, Davidson, Durham, Halifax (that portion east of NC 903), Montgomery (that portion west of NC 109), Northampton, Richmond (that portion south of NC 73 and west of US 220 and north of US 74), Rowan, Stanly, Union, and Wake.

RP Hunt Zone: Includes the following Counties or portions of Counties: Alamance, Alleghany, Alexander, Ashe, Avery, Beaufort, Bertie (that portion south and west of a line formed by NC 45 at the Washington Co. line to US 17 in Midway, US 17 in Midway to US 13 in Windsor, US 13 in Windsor to the Hertford Co. line), Bladen, Brunswick, Buncombe, Burke, Caldwell, Carteret, Caswell, Catawba, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Davie, Duplin, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Greene, Guilford, Halifax (that portion west of NC 903), Harnett, Haywood, Henderson, Hertford, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, McDowell, Macon, Madison, Martin, Mecklenburg, Mitchell, Montgomery (that portion that is east of NC 109), Moore, Nash, New Hanover, Onslow, Orange, Pamlico, Pender, Person, Pitt, Polk, Randolph, Richmond (all of the county with exception of that portion that is south of NC 73 and west of US 220 and north of US 74), Robeson, Rockingham, Rutherford, Sampson, Scotland, Stokes, Surry, Swain, Transylvania, Vance, Warren, Watauga, Wayne, Wilkes, Wilson, Yadkin, and Yancey.

Northeast Hunt Unit: Includes the following Counties or portions of Counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to US 17 in Midway, US 17 in Midway to US 13 in Windsor, US 13 in Windsor to the Hertford Co. line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

Pennsylvania

Resident Canada Goose Zone: All of Pennsylvania except for SJBP Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of US Route 30, south of US Route 30

to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I-80 and west of I-79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie Shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of US Route 30, south of US Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to New Jersey State line.

Rhode Island

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada Goose Area: Statewide except for Clarendon County, that portion of Orangeburg County north of SC Highway 6, and that portion of Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S-8-31 and that portion west of the Santee Dam.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: the ''Blue Ridge'' (mountain spine) at the West Virginia–Virginia Border (Loudoun County–Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun–Fauquier–Rappahannock–Madison–Greene–Albemarle and into Nelson Counties), then east along Interstate Rt. 64 to Route 15, then south along Rt. 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

West Virginia

Same zones as for ducks.

Mississippi Flyway

Alabama

Same zones as for ducks, but in addition:

SJBP Zone: That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Illinois

Same zones as for ducks.

Indiana

Same zones as for ducks but in addition:

Special Canada Goose Seasons

Indiana Late Canada Goose Season Zone: That part of the state encompassed by the following Counties: Steuben, Lagrange, Elkhart, St. Joseph, La Porte, Starke, Marshall, Kosciusko, Noble, De Kalb, Allen, Whitley, Huntington, Wells, Adams, Boone, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Vermillion, Parke, Vigo, Clay, Sullivan, and Greene.

Iowa

North Zone: That portion of the State north of U.S. Highway 20.

South Zone: The remainder of Iowa.

Kentucky

Western Zone: That portion of the State west of a line beginning at the Tennessee State line at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I–24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana State line.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter, then southwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Henderson County and that portion of Union County within the Western Zone.

Pennyroyal/Coalfield Zone: Butler, Daviess, Ohio, Simpson, and Warren Counties and all counties lying west to the boundary of the Western Goose Zone.

Michigan

(a) North Zone – Same as North duck zone.

(b) Middle Zone – Same as Middle duck zone.

(c) South Zone – Same as South duck zone.

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bay Port Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Special Canada Goose Seasons:

Southern Michigan Late Season Canada Goose Zone: Same as the South Duck Zone excluding Tuscola/Huron

Goose Management Unit (GMU), Allegan County GMU, Saginaw County GMU, and Muskegon Wastewater GMU.

Minnesota

West Zone: That portion of the State encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa State line, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota State line.

West Central Zone: That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west along CSAH 30 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersection, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

Special Canada Goose Seasons:

Southeast Zone: That part of the State within the following described boundaries: beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Missouri

Same zones as for ducks but in addition:

Middle Zone

Southeast Zone: That portion of the State encompassed by a line beginning at the intersection of Missouri Highway (MO) 34 and Interstate 55 and extending south along I–55 to U.S. Highway 62, west along U.S. 62 to MO 53, north along MO 53 to MO 51, north along MO 51 to U.S. 60, west along U.S. 60 to MO 21, north along MO 21 to MO 72, east along MO 72 to MO 34, then east along MO 34 to I–55.

Ohio

Same zones as for ducks but in addition:

North Zone

Lake Erie Zone: That portion of the North Duck Zone encompassed by and north and east of a line beginning in Lucas County at the Michigan State line on I–75, and extending south along I–75 to I–280, south along I–280 to I–80, and east along I– 80 to the Pennsylvania State line in Trumbull County.

Tennessee

Southwest Zone: That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

Northwest Zone: Lake, Obion, and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

Kentucky/Barkley Lakes Zone: That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama State line to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky State line.

Wisconsin

Same zones as for ducks but in addition:

Horicon Zone: That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County, westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to Interstate Highway 39, southerly along Interstate Highway 39 to Interstate Highway 90/94, southerly along I–90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

Collins Zone: That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly along Poplar Grove Road to Rockea Road, southerly along Rockea Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

Exterior Zone: That portion of the State not included in the Horicon or Collins Zones.

Mississippi River Subzone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

Rock Prairie Subzone: That area encompassed by a line beginning at the intersection of the Illinois State line and Interstate Highway 90 and extending north along I–90 to County Highway A, east along County A to U.S. Highway 12, southeast along U.S. 12 to State Highway 50, west along State 50 to State 120, then south along 120 to the Illinois State line.

Brown County Subzone: That area encompassed by a line beginning at the intersection of the Fox River with Green Bay in Brown County and extending southerly along the Fox River to State Highway 29, northwesterly along State 29 to the Brown County line, south, east, and north along the Brown County line to Green Bay, due west to the midpoint of the Green Bay Ship Channel, then southwesterly along the Green Bay Ship Channel to the Fox River.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer and Weld Counties

from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park and San Luis Valley Area: All of Alamosa, Chaffee, Conejos, Costilla, Custer, Fremont, Lake, Park, Rio Grande and Teller Counties, and those portions of Saguache, Mineral and Hinsdale Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the South Dakota State line and the Cherry County line, south along the Cherry County line to the Niobrara River, east to the Norden Road, south on the Norden Road to U.S. Hwy 20, east along U.S. Hwy 20 to NE Hwy 137, north along NE Hwy 137 to the Niobrara River, east along the Niobrara River to the Boyd County line, north along the Boyd County line to the South Dakota State line. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

East Unit: That area north and east of U.S. 281 at the Kansas–Nebraska State line, north to Giltner Road (near Doniphan), east to NE 14, north to NE 66, east to U.S. 81, north to NE 22, west to NE 14 north to NE 91, east to U.S. 275, south to U.S. 77, south to NE 91, east to U.S. 30, east to Nebraska–Iowa State line.

Platte River Unit: That area south and west of U.S. 281 at the Kansas—Nebraska State line, north to Giltner Road (near Doniphan), east to NE 14, north to NE 66, east to U.S. 81, north to NE 22, west to NE 14 north to NE 91, west along NE 91 to NE 11, north to the Holt County line, west along the northern border of Garfield, Loup, Blaine and Thomas Counties to the Hooker County line, south along the Thomas-Hooker County lines to the McPherson County line, east along the south border of Thomas County to the western line of Custer County, south along the Custer—Logan County line to NE 92, west to U.S. 83, north to NE 92, west to NE 61, north along NE 61 to NE 2, west along NE 2 to the corner formed by Garden—Grant—Sheridan Counties, west along the north border of Garden, Morrill, and Scotts Bluff Counties to the intersection of the Interstate Canal, west to Wyoming State line.

North–Central Unit: The remainder of the State.

Light Geese

Rainwater Basin Light Goose Area (West): The area bounded by the junction of U.S. 283 and U.S. 30 at Lexington, east on U.S. 30 to U.S. 281, south on U.S. 281 to NE 4, west on NE 4 to U.S. 34, continue west on U.S. 34 to U.S. 283, then north on U.S. 283 to the beginning.

Rainwater Basin Light Goose Area (East): The area bounded by the junction of U.S. 281 and U.S. 30 at Grand Island, north and east on U.S. 30 to NE 14, south to NE 66, east to US 81, north to NE 92, east on NE 92 to NE 15, south on NE 15 to NE 4, west on NE 4 to U.S. 281, north on U.S. 281 to the beginning.

Remainder of State: The remainder portion of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; thence north on ND Hwy 6 to I-94; thence west on I-94 to ND Hwy 49; thence north on ND Hwy 49 to ND Hwy 200; thence north on Mercer County Rd. 21 to the section line between sections 8 and 9 (T146N-R87W); thence north on that section line to the southern shoreline to Lake Sakakawea; thence east along the southern shoreline (including Mallard Island) of Lake Sakakawea to US Hwy 83; thence south on US Hwy 83 to ND Hwy 200; thence east on ND Hwy 200 to ND Hwy 41; thence south on ND Hwy 41 to US Hwy 83; thence south on US Hwy 83 to I-94; thence east on I-94 to US Hwy 83; thence south on US Hwy 83 to the South Dakota border; thence west along the South Dakota border to ND Hwy 6.

Rest of State: Remainder of North Dakota.

South Dakota

Canada Geese

Unit 1: Remainder of South Dakota.

Unit 2: Bon Homme, Brule, Buffalo, Charles Mix, Custer east of SD Hwy 79 and south of French Creek, Dewey south of US Hwy 212, Fall River east of SD Hwy 71 and US Hwy 385, Gregory, Hughes, Hyde south of US Hwy 14, Lyman, Perkins, Potter west of US Hwy 83, Stanley, and Sully Counties.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas–Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas–Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas–Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Area 1: Converse, Hot Springs, Natrona, and Washakie Counties, and the portion of Park County east of the Shoshone National Forest boundary and south of a line beginning where the Shoshone National Forest boundary crosses Park County Road 8VC, easterly along said road to Park County Road 1AB, easterly along said road to Wyoming Highway 120, northerly along said highway to Wyoming Highway 294, southeasterly along said highway to Lane 9, easterly along said lane to the town of Powel and Wyoming Highway 14A, easterly along said highway to the Park County and Big Horn County Line.

Area 2: Albany, Campbell, Crook, Johnson, Laramie, Niobrara, Sheridan, and Weston Counties, and that portion of Carbon County east of the Continental Divide; that portion of Park County west of the Shoshone National Forest boundary, and that portion of Park County north of a line beginning where the Shoshone National Forest boundary crosses Park County Road 8VC, easterly along said road to Park County Road 1AB, easterly along said road to Wyoming Highway 120, northerly along said highway to Wyoming Highway 294, southeasterly along said highway to Lane 9, easterly along said lane to the town of Powel and Wyoming Highway 14A, easterly along said highway to the Park County and Big Horn County Line.

Area 3: Goshen and Platte Counties.

Area 4: Big Horn and Fremont Counties.

Pacific Flyway

Arizona

North Zone: Game Management Units 1-5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B-45.

California

Northeastern Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I-10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I-15; east on I-15 to CA 127; north on CA 127 to the Nevada border.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Rd.; north on Weist Rd. to Flowing Wells Rd.; northeast on Flowing Wells Rd. to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Rd.; south on Frink Rd. to Highway 111; north on Highway 111 to Niland Marina Rd.; southwest on Niland Marina Rd. to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

North Coast Special Management Area: The Counties of Del Norte and Humboldt.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I-5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

West Central Area: Archuleta, Delta, Dolores, Gunnison, LaPlata, Montezuma, Montrose, Ouray, San Juan, and San Miguel Counties and those portions of Hinsdale, Mineral, and Saguache Counties west of the Continental Divide.

State Area: The remainder of the Pacific-Flyway Portion of Colorado.

Idaho

Zone 1: Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone, and Valley Counties.

Zone 2: The Counties of Ada; Boise; Canyon; those portions of Elmore north and east of I-84, and south and west of I-84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; and Washington.

Zone 3: The Counties of Cassia except the Minidoka National Wildlife Refuge; those portions of Elmore south of I-84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; and Twin Falls.

Zone 4: The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Blaine; Bonneville, Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; and Teton.

Zone 5: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County.

Montana (Pacific Flyway Portion)

East of the Divide Zone: The Pacific Flyway portion of the State located east of the Continental Divide.

West of the Divide Zone: The remainder of the Pacific Flyway portion of Montana.

Nevada

Lincoln Clark County Zone: All of Lincoln and Clark Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I-40.

South Zone: The Pacific Flyway portion of New Mexico located south of I-40.

Oregon

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Northwest Special Permit Zone: That portion of western Oregon west and north of a line running south from the Columbia River in Portland along I-5 to OR 22 at Salem; then east on OR 22 to

the Stayton Cutoff; then south on the Stayton Cutoff to Stayton and due south to the Santiam River; then west along the north shore of the Santiam River to I-5; then south on I-5 to OR 126 at Eugene; then west on OR 126 to Greenhill Road; then south on Greenhill Road to Crow Road; then west on Crow Road to Territorial Hwy; then west on Territorial Hwy to OR 126; then west on OR 126 to Milepost 19; then north to the intersection of the Benton and Lincoln County line; then north along the western boundary of Benton and Polk Counties to the southern boundary of Tillamook County; then west along the Tillamook County boundary to the Pacific Coast.

Lower Columbia/N. Willamette Valley Management Area: Those portions of Clatsop, Columbia, Multnomah, and Washington Counties within the Northwest Special Permit Zone.

Tillamook County Management Area: All of Tillamook County is open to goose hunting except for the following area—beginning in Cloverdale at Hwy 101, west on Old Woods Rd to Sand Lake Rd at Woods, north on Sand Lake Rd to the intersection with McPhillips Dr, due west (~200 yards) from the intersection to the Pacific coastline, south on the Pacific coastline to Neskowin Creek, east along the north shores of Neskowin Creeks and then Hawk Creek to Salem Ave, east on Salem Ave in Neskowin to Hawk Ave, east on Hawk Ave to Hwy 101, north on Hwy 101 at Cloverdale, to the point of beginning.

Northwest Zone: Those portions of Clackamas, Lane, Linn, Marion, Multnomah, and Washington Counties outside of the Northwest Special Permit Zone and all of Lincoln County.

Eastern Zone: Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Deschutes, Jefferson, Crook, Wheeler, Grant, Baker, Union, and Wallowa Counties.

Harney, Lake, and Malheur County Zone: All of Harney, Lake, and Malheur Counties.

Klamath County Zone: All of Klamath County.

Utah

Northern Utah Zone: All of Cache and Rich Counties, and that portion of Box Elder County beginning at I-15 and the Weber-Box Elder County line; east and north along this line to the Weber-Cache County line; east along this line to the Cache-Rich County line; east and south along the Rich County line to the Utah-Wyoming State line; north along this line to the Utah-Idaho State line; west on this line to Stone, Idaho-Snowville, Utah road; southwest on this road to Locomotive Springs Wildlife Management Area; east on the county road, past Monument Point and across Salt Wells Flat, to the intersection with Promontory Road; south on Promontory Road to a point directly west of the northwest corner of the Bear River Migratory Bird Refuge boundary; east along an imaginary line to the northwest corner of the Refuge boundary; south and east along the Refuge boundary to the southeast corner of the boundary; northeast along the boundary to the Perry access road; east on the Perry access road to I-15; south on I-15 to the Weber-Box Elder County line.

Remainder-of-the-State Zone: The remainder of Utah.

Washington

Area 1: Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone): Clark County, except portions south of the Washougal River; Cowlitz County; and Wahkiakum County.

Area 2B (SW Quota Zone): Pacific County.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2A, and 2B.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

North Coast Zone: Del Norte, Humboldt and Mendocino Counties.

South Coast Zone: Balance of the State.

Washington

Puget Sound Zone: Skagit County.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada–Utah State line; then south on the Nevada–Utah State line to I–80.

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